

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

REGISTRATION OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

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

CAUSE NO. RM 201900007

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CHAPTER 26 RULES ADOPTED BY THE COMMISSION  
AT A PUBLIC HEARING ON DECEMBER 10, 2019

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TITLE 165. CORPORATION COMMISSION  
CHAPTER 26. ABOVEGROUND STORAGE TANKS

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. PURPOSE AND DEFINITIONS

**165:26-1-2. Definitions**

In addition to the terms defined in 17 O.S. §§ 301 et seq., the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Aboveground storage tank" or "AST" means ~~any stationary tank and individual compartments not included within the definition of a petroleum storage tank in Oklahoma Administrative Code (OAC) 165:25-1-11, which is designed to contain PSTD regulated substances without structural support of earthen material~~ a "Storage tank" as defined in 17 O.S. § 303(40) that has more than ninety percent (90%) of its volume above the surface of the ground.

"Aboveground storage tank system" means ~~an aboveground storage tank, a closed-plumbed system including, but not limited to, the aboveground storage tank(s), the individual storage tank compartments, and any connected aboveground or underground piping, dispensers and associated equipment and fixtures~~ the lines, the dispenser for a given product, containment sump, if any, ancillary equipment or a transport-delivery truck that is connected to the storage tank system.

"Agent" means a person authorized by another to act on their behalf, either out of employment or contract.

"Airports" mean landing facilities for aircraft which are routinely available for public use (whether routinely used or not). Airports as used in this Chapter do not include private airstrips or private airports.

"Ancillary equipment" means any device including, but not limited to: devices, such as piping, fittings, flanges, valves, and pumps that are used to distribute, meter, or control the flow of regulated substances to or from a petroleum storage tank.

"ATG" means automatic tank gauging.

"Backfill" is the material that is placed in piping excavation to support and separate the piping from the natural environment.

**"BTEX"** means benzene, toluene, ethylbenzene and xylene.

**"Bulk plant"** means petroleum storage tank facility where regulated substances are received by tank vessels, pipelines, tank cars, or tank vehicles and are stored or blended in mass quantities or bulk for the purpose of distributing them by a tank vessel, pipeline, tank car, tank vehicle, portable tank or other container, for wholesale or retail sale.

**"Cathodic protection"** means a technique designed to prevent the corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, protection can be accomplished with an impressed current system or a galvanic anode system

**"Change in service"** means a change in the status of a storage tank (i.e., from currently in use to temporarily out of use); or change of regulated substance that a storage tank contains.

**"Commission" or "OCC"** means the Oklahoma Corporation Commission ~~and includes its designated agents or representatives.~~

**"Compatible"** means the ability of two (2) or more substances to maintain their respective physical properties upon contact with one another for the design life of the PST system under conditions likely to be encountered in the system.

~~**"Construction tank"** means a fuel tank used for less than twelve (12) months at a construction site.~~

**"Corrosion expert"** means an individual having the requisite knowledge, experience, certification, and training to design, install, test, and maintain corrosion protection systems.

~~**"Division"** means the Petroleum Storage Tank Division (PSTD) of the Corporation Commission.~~

**"Emergency venting"** means a construction method or device that relieves excessive internal pressure due to fire exposure.

**"EPA"** means the United States Environmental Protection Agency.

**"Electronic signature"** means an electronic signature as defined in OAC 165:5-1-3.

**"Farm tank"** is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes but is not limited to fish hatcheries, rangeland, and nurseries with growing operations.

**"Fire protected tank"** means an aboveground storage tank that is listed in accordance with UL 2085, *Standard for Insulated Aboveground Tanks for Flammable and Combustible Liquids*, or an equivalent test procedure that consists of a primary tank provided with protection from physical damage and fire-resistive protection from exposure to a high-intensity liquid pool fire.

**"Fire resistant tank"** means a UL listed aboveground storage tank that provides fire-resistant protection from exposures to a high intensity liquid pool fire.

**"Fleet and Commercial"** means any facility that uses aboveground storage tanks to store regulated substances for use in its own vehicles or equipment.

**"Flow-through process tank"** means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of material during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process.

**"Formal Enforcement Action"** means the process of ensuring compliance with Commission regulations, rules, orders, requirements, standards, and/or state law when a violation occurs and PSTD initiates an enforcement Complaint under the contempt procedure in OAC 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.



**"Fund"** means the Petroleum Storage Tank Indemnity Fund.

~~**"Generation facilities"** means those tanks that are permanently installed, which routinely contain fuel to be used in emergency generators in the event of a power failure.~~

**"Impervious barrier"** means a barrier of sufficient thickness, density, and composition that is impenetrable to the regulated substance, has a permeability of at least  $1 \times 10^{-6}$  cm/sec., and will prevent the discharge to the environment of any regulated substance for a period of at least as long as the maximum anticipated time during which the regulated substance will be in contact with the impervious material.

**"Important building"** means a building that is considered not expendable in an exposure fire.

**"In service"** means a petroleum storage tank that contains a regulated substance, and/or has a regulated substance added to or withdrawn from it.

**"Licensed Environmental Consultant"** means an individual who has a current license issued by PSTD to perform corrective action.

**"Maintenance"** means the normal operational upkeep necessary to prevent a petroleum storage tank system from releasing product.

**"Marina"** means any fuel storage tank system located on or by the water for the purpose of fueling watercraft.

**"Mobile or Temporary Tank at Construction Site"** means a fuel tank used for less than twelve (12) months at a construction site.

**"Operator"** means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, violation of the Oklahoma Petroleum Storage Tank Consolidation Act, or a rule promulgated thereunder, or a requirement of the Commission. In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, the last person to operate the storage tank system immediately before the discontinuation of its service/use.

**"Owner"** means: any person as set forth in 17 O.S. § 303(27).

~~(A) In the case of a storage tank system in service/use on November 8, 1984, or brought into service/use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, including the real property owner where the storage tank system is still present, the storage tank system presence is a trade fixture or improvement or both. It is not necessary that the real property owner sold, used, or stored regulated substances in, of, or from the storage tank system.~~

~~(B) In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of its service/use. However, a real property owner who has a storage tank system located on their property that was taken out of service/use prior to November 8, 1984, is not considered to be a storage tank owner for any PSTD regulated purpose.~~

**"Permanent out of use" or "POU"** means a petroleum storage tank system that is not in service/use, does not contain regulated substances, and is not intended to be placed back in service/use.

**"Pier"** means dock, floating dock, and wharf.

**"Positive sampling, testing, or monitoring results"** means the results of sampling, testing or monitoring using any of the release detection methods described in this Chapter that indicate that a release from a petroleum storage tank system may have occurred.

**"Private airport"** means an airport used only by its owner and regulated as a fleet and commercial facility.

**"Private airstrip"** means a personal residential takeoff and landing facility attached to the airstrip owner's residential property and used only by the owner.

**"PSTD"** means Petroleum Storage Tank Division.

**"Public Utility"** means any entity providing gas, electricity, water, or telecommunication services for public use.

**"Recalcitrant owner"** means an owner/operator who is responsible for a tank system and after notice will not adhere to a PSTD enabling statute, Commission rule, requirement or order.

**"Regulated substances"** means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel as set forth in 17 O.S. § 305. It does not include compressed natural gas, liquid natural gas and or propane.

**"Release detection"** means the methodology used in determining whether a release of regulated substances has occurred from a petroleum storage tank system into the environment or into the interstitial area between the storage tank system and its secondary barrier.

**"Residential tank"** is a tank located on real property used primarily for dwelling purposes.

**"Retail facility"** means a service station, convenience store or any other facility selling a PSTD regulated substance that is open to the general public.

**"Sacrificial anode"** means a device to reduce or prevent corrosion of a metal in an electrolyte by galvanic coupling to a more anodic metal.

**"Secondary containment"** means a system installed around a petroleum storage tank or system that is designed to prevent a release from migrating beyond the secondary containment system outer wall (in the case of a double-walled tank system) or excavation area (in the case of a liner or vault system) before the release can be detected. Such a system may include, but is not limited to, impervious barriers (both natural and synthetic), double walls, or vaults.

**"TPH"** means total petroleum hydrocarbons.

**"Tampering"** means willful intention in an attempt to deceive, cheat or misrepresent facts to the public. Tampering also presents a risk to the environment as well as public health, safety, and welfare.

**"Tank tightness testing"** or **"precision testing"** means a procedure for testing a petroleum storage tank system's integrity.

**"Temporary out of use"** or **"TOU"** means the status of a petroleum storage tank system that has been taken out of service/use with the intent to permanently close or return to service.

**"Total venting capacity"** means the sum of the normal and emergency vent capacities and is determined by the wetted area of the tank as provided in Appendix I.

**"Used Motor Oil"** is any spent motor oil removed from a motor vehicle.

**"Vault"** means an enclosure consisting of four (4) walls, a floor, and a top for the purpose of containing a liquid storage tank and not intended to be occupied by personnel other than for inspection, repair, or maintenance of the vault, the storage tank or related equipment.

**"Wetted area of cylindrical tank"** means seventy-five percent (75%) of the total exposed area of the tank ends and shell.

**"Wetted area of rectangular tank"** means one hundred percent (100%) of the surface area of the bottom, sides, and ends of the tank.

**"Wetted area of vertical tank"** means the first thirty feet (30') above grade of the exposed shell and floor.

### PART 3. SCOPE OF RULES

#### **165:26-1-22. Exclusions**

(a) The following classes of aboveground storage tanks or systems are specifically excluded from all provisions of this Chapter:

- (1) All tanks used in the exploration or production of oil and gas, including well service equipment and natural gas compression equipment.
- (2) All mobile or temporary tanks used at construction sites.
- (3) All farm and ranch tanks.
- (4) All tanks used by public utilities in the generation of electric power for public use.
- (5) All tanks used by manufacturers in the production of goods.
- (6) Emergency generator tanks.
- (7) All tanks that contain motor oil, used motor oil or antifreeze located at retail motor vehicle lubrication facilities or automotive service centers.
- (8) Tanks used for storing heating oil for consumptive use on the premises where stored.

(b) These exclusions do not extend to permanently located fuel storage tanks used to fuel company vehicles, even though the vehicles may be driven to production or construction sites.

### PART 4. ADMINISTRATIVE PROVISIONS

#### **165:26-1-26. Hearings, orders and ~~appeals~~ exceptions**

(a) The Commission will issue orders after notice and hearing as necessary to enforce the provisions of this Chapter or PSTD enabling statutes to protect property, ~~human~~ the public health and safety, and the environment.

(b) Hearings to enforce or ~~appeal~~ exceptions to the provisions of this Chapter or PSTD enabling statutes will be ~~done~~ conducted in accordance with ~~Chapter 5 of Commission rules~~ OAC 165:5.

### PART 7. NOTIFICATION AND REPORTING REQUIREMENTS

#### **165:26-1-41. General reporting requirements**

PSTD requires owners and/or operators of aboveground storage tank systems to provide information it deems necessary for the protection of human health, the environment and to assure the safety of people and property. Owners and operators must notify PSTD within thirty (30) days when their mailing address changes or when the status of the aboveground storage tank system changes. Use of the designated PSTD online format is required for reporting, scheduling, tank registration, change in ownership, thirty (30) day release detection, testing, temporary change in service, permanent closure, or return to service. Owners and operators of aboveground storage tanks must notify PSTD ~~using the PSTD scheduling form~~ at least thirty (30) days prior to switching regulated substances containing greater than ten percent (10%) ethanol or twenty percent (20%) biodiesel using the PSTD scheduling form in the online format established by PSTD. ~~These Required release detection forms are available at the OCC on the Commission website, PST Division webpage: [www.occweb.com](http://www.occweb.com); follow the link to Petroleum Storage Tank Division and link to PST Compliance Forms. Failure to notify and/or submit PSTD paperwork in the online format established by PSTD within the timeframe required may result in an enforcement action.~~



**165:26-1-42. New tank systems**

(a) Persons intending to install a new aboveground storage tank and/or new aboveground or underground piping must give PSTD notification of the installation at least forty-eight (48) hours before the tank and/or lines are to be installed ~~by submitting the PSTD scheduling form in the online format established by PSTD~~ and receiving confirmation of the scheduled installation and the Temporary Authorization for Receipt of Fuel from PSTD. If events require the owner to change the date of installation, the Division should be given forty-eight (48) hours notice of the new date. Any storage tank system permanent removal or a removal associated with replacement of tanks or lines requires at least fourteen (14) day notification prior to the removal activity.

(b) ~~Upon receipt of the scheduling form an authorization letter giving temporary approval to receive fuel into an un-permitted tank for testing purposes only will be sent to the owner. This letter will expire ninety (90) days after the date of issuance. After the tank installation is complete, the PSTD registration form must be submitted to PSTD in the online format established by PSTD along with copies of required installation testing, photographs of the tank and piping system components before they are covered, an as-built drawing of the entire tank system, and manufacturer installation checklists within thirty (30) days. The tank owner and the AST Licensee are both responsible for timely submittal of all installation paperwork. The registration form must be approved and tank fees paid in order to receive a tank permit to dispense fuel. No regulated storage tank system can be operated without a valid permit from the Corporation Commission.~~

(c) Owners and AST Licensees must certify on the PSTD Registration ~~form~~ that the installation of tanks and piping meet the requirements of this Chapter. A PSTD Certification of Installation Inspection Form may also be submitted to satisfy certification of tank and piping installation.

**PART 15. LICENSING PROCEDURES**

**165:26-1-113. License penalties**

(a) PSTD shall have the responsibility to deny, suspend, refuse to renew or revoke the license of, or reprimand, any licensee who is found guilty in violation of:

(1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.

(2) Any gross negligence, incompetence or misconduct in installation work performed pursuant to this Chapter.

(3) Knowingly making false statements or signing false statements, certificates or affidavits to PSTD or to clients ~~with the intention to induce payment.~~

(4) Aiding or assisting another person in violating any provision of this Chapter.

(5) Signing a verification statement for work performed pursuant to this Chapter which was not performed by the aboveground storage tank licensee.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.

(7) Failure to comply with this Chapter, OAC 165:25, 165:26, 165:27, 165:29, and/or the Oklahoma Petroleum Storage Tank Consolidation Act (17 O.S. §§ 301 et seq.) may result in PSTD seeking a suspension and/or revocation of the license.

(8) Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.

(9) ~~Failure to submit Commission required paperwork, test results, and reports in the format established by PSTD within the required timeframe may result in enforcement action.~~

(b) Failure to submit Commission required paperwork, test results, and reports in the online format established by PSTD within the required timeframe may result in enforcement action.

(b)(c) Disciplinary action levels against PSTD licensees include but are not limited to informal reprimand, formal reprimand, license suspension, license revocation and refusal to renew.

(e)(d) Any licensee in violation of Commission enabling statutes, PSTD rules, requirements and/or Commission orders may be subject to disciplinary action levels mentioned above and/or fines assessed by the Commission after notice and hearing.

## **SUBCHAPTER 2. GENERAL REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS**

### **PART 1. DESIGN AND INSTALLATION**

#### **165:26-2-3. Aboveground storage tank spacing**

Spacing (shell to shell) between any two adjacent aboveground tanks for tanks storing Class I, II, or IIIA stable liquids must be according to the ~~table in Appendix H~~ standards in NFPA 30. The minimum distance between tanks shall be no less than 3 feet. Variances can be made by PSTD for pre-existing facilities where deviation from these rules does not pose a serious hazard to people or property.

#### **165:26-2-4. Distance to be kept around tanks**

- (a) The following distances, at a minimum, must be kept around aboveground storage tanks.
- (1) 50 ft (15 meters) from the nearest important building as defined by this Chapter;
  - (2) 50 ft (15 meters) from any fuel dispenser;
  - (3) 50 ft (15 meters) from the nearest side of a public way; and
  - (4) 100 ft (30 meters) from any property line that is or might be built upon, including the opposite side of a public way.
- (b) The distances as set forth in (a) of this may be reduced by 50 percent if the tanks are fire-resistant. The distances as set forth in (a) may be further reduced if the tanks are a fire-protected ~~type aboveground-tank~~ or tanks in vaults as per NFPA 30A-4.3.2.4.
- (c) A variance may be granted for pre-existing facilities where compliance would be difficult and expensive and the current distances between tanks, property lines or dispensers pose no serious threat to people or property.

#### **165:26-2-5.1. General spill and overfill prevention requirements**

- (a) Owners and operators of aboveground storage tank systems, their employees or agents, as well as those who transport regulated substances to these systems must do everything reasonably possible to ensure that releases due to spilling and overfilling do not occur.
- (b) Tanks with a fill pipe must be filled through a liquid tight connection mounted inside at least a five (5) gallon spill container. A spill bucket is not required if the fill pipe is located within an impervious containment dike. Where an aboveground tank is filled by means of fixed piping, either a check valve and shutoff valve with a quick-connect coupling or a check valve with a dry-break coupling shall be installed in the piping at a point where connection and disconnection is made inside the spill containment between the tank and the delivery vehicle. This device shall be

protected from tampering and physical damage. Tampering with equipment is prohibited. Any violation of this section may result in fines, enforcement action and/or shutdown of operations.

(c) For existing aboveground storage tank systems installed ~~after~~ before October 13, 2018, any one of the following methods must be used to prevent overfilling.

(1) High liquid level alarms with an audible or visual signal that alerts personnel when the tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.

(2) High liquid level pump cutoff devices set to stop flow at a predetermined container content level.

(3) Direct audible or code signal communication between the tank gauger and the pumping station.

(4) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used a second person must be present to monitor gauges and the overall filling of the tank.

(d) For installations after October 13, 2018, a fill valve which automatically stops delivery of liquid when the tank reaches ninety-five percent (95%) capacity in addition to one of the following methods must be used to prevent overfilling.

(1) High liquid level alarms with an audible or visual signal that alerts personnel when tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.

(2) Direct audible or code signal communication between the tank gauger and the pumping station.

(3) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used, a second person must be present to monitor gauges and the overall filling of the tank.

(e) Liquid level sensing devices must be tested at least annually to ensure proper operation.

(f) Means shall be provided for determining the liquid level in each tank and this means shall be accessible to the delivery operator. Tank filling shall not begin until the delivery operator has determined that the tank has sufficient available capacity (ullage).

#### **165:26-2-7. Collision barriers**

(a) Aboveground storage tanks exposed to traffic must be resistant to damage from the impact of a motor vehicle ~~or be protected~~ by suitable collision barriers. The secondary containment dike may serve as a collision barrier provided that it cannot be penetrated by a motor vehicle.

(b) When guard posts or collision barriers are installed, the following design shall be acceptable:

(1) They shall be constructed of steel not less than 4 in. (100 millimeters) in diameter and shall be filled with concrete.

(2) They shall be spaced not more than 4 ft. (1.2 meters) on center.

(3) They shall be set not less than 3 ft (0.9 meters) deep in a concrete footing of not less than 15-in. (380 millimeters) diameter.

(4) They shall not be less than three feet (3') above grade and concrete barriers not less than thirty-two inches (32") above grade.

(5) They shall not be less than five feet (5') from the tank shell.

(c) Dispensing devices, except those attached to containers, must either be mounted on a concrete island or otherwise protected against collision damage by suitable means and must be securely bolted in place. If located indoors, the dispensing device will be located in a position where it



cannot be struck by a vehicle that is out of control descending a ramp or other slope. The installation must be in accordance with the manufacturer's instructions.

## **PART 9. DISPENSER REQUIREMENTS**

### **165:26-2-91.1. Display on dispenser**

(a) Every dispenser or delivery device regulated by the Commission used for sale of motor fuel to the public must legibly display the type of motor fuel offered for sale.

(b) Any motor fuel must be displayed in accordance with 16 CFR Part 306.0 through 306.12, including Appendices; and sold as provided for by Commission rules and National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices".

## **SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION**

### **PART 14. RELEASE REPORTING REQUIREMENTS**

#### **165:26-3-77. Release reporting**

(a) The reporting requirements of this Part do not relieve the owner or operator of the responsibility to take necessary corrective action pursuant to OAC 165:29 to protect the public health, safety and the environment, including the containment and cleanup of spills and overfills that are not required to be reported by this Chapter. No person shall allow a confirmed or suspected release of regulated substances from an aboveground storage tank system to continue without reporting to PSTD or initiating an investigation within twenty-four (24) hours of discovery as required by this Chapter. Owners and operators of aboveground storage tank systems, as well as persons who transport regulated substances must ensure that spills and overfills do not occur.

(b) All aboveground storage tank system owners, operators, their employees or agents, or transporters must report to PSTD within twenty-four (24) hours of discovering any substances, conditions or monitoring results that indicate a release may have occurred using the link provided on the release reporting tab on PSTD's webpage ~~at the OCC website, [www.occweb.oeccemail.com](http://www.occweb.oeccemail.com)~~; on the Commission website; by email at [PSTReleaseReporting@occ.ok.gov](mailto:PSTReleaseReporting@occ.ok.gov); or by telephone at (405) 521-4683 or 1-888-621-5878. If after hours, or on weekends or holidays, call the PSTD emergency phone number at (405) 823-0994. Owners or operators must provide written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter. Events indicating a release include, but are not limited to, the following:

(1) The discovery of released regulated substances at the aboveground storage tank system facility or in the surrounding area (such as the presence of free product or vapors in soils, basements, crawlspaces, sewer and utility lines, and nearby surface water) whether on-site or off-site.

(2) Any unusual operating conditions observed by owners, operators, their employees, or agents such as the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the aboveground storage tank system, or an unexplained presence of water in the tank, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced.

- (3) In the case of inventory control, two (2) consecutive thirty (30) day periods where the Total Gallons Over/Short is greater than the "Leak Check" (one percent (1%) of product sales plus 130 gallons) must be reported to PSTD within twenty-four (24) hours of the owner, operator, their employees, or agents discovering the inventory control results.
- (4) Monitoring results from a release detection method required by this Chapter that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.
- (c) While aboveground releases of petroleum of less than twenty-five (25) gallons need not be reported to PSTD, they must be recorded by the owner or operator and contained and cleaned up immediately. All of the following releases must be reported to PSTD electronically or by telephone within twenty-four (24) hours of discovery, by the owner, operator, employee, or agent, with a written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter:
- (1) All known belowground releases in any quantity; for example, a release resulting from a line broken during an excavation.
  - (2) Any aboveground release of petroleum greater than twenty-five (25) gallons.
  - (3) Any aboveground release of petroleum that is less than twenty-five (25) gallons, but cannot be contained and cleaned up within twenty-four (24) hours.
- (d) All owners and/or operators of aboveground storage tank systems must maintain records of all reportable and non-reportable events listed in this section sufficient to permit adequate inspection and review by PSTD. These records must be kept for three (3) years following the date of the event.
- (e) If any of the possible, probable or definite release conditions set forth in subsections (a) through (c) above are not reported within twenty-four (24) hours, the owner, operator, their employees, or agents may be subject to fines, Formal Enforcement Action and/or shutdown of operations.
- (f) Any releases requiring emergency corrective action must be reported immediately to PSTD at (405) 521-4683 or 1-888-621-5878. After office hours, weekends or holidays, calls must be reported to PSTD's emergency number at (405) 823-0994.

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

##### **PART 5. NOTICES OF VIOLATION, FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS**

###### **165:26-4-16. Notices of Violation**

- (a) When a PSTD Fuel Specialist finds a violation of any statute, rule, requirement, or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation ("NOV").
- (1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation, and ~~warn~~ advise that further PSTD enforcement action may occur if the violation is not corrected.
  - (2) At PSTD's discretion, serious violations can be immediately turned over to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action.

- ~~(2)~~(3) The NOV must explain what the offense is and how it can be corrected.
- (b) Notices of Violation will state the following information:
- (1) A clear description of the violation(s).
  - (2) A date by which the violation(s) must be corrected.
  - (3) The name of the Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the Fuel Specialist questions.
- (c) NOV(s) are issued to the owner or operator of the storage tank facility. If the owner/operator is not present, NOV(s) can be given to store personnel.
- (d) All notifications and/or correspondence will be mailed or electronically submitted to the owner and/or operator.

**165:26-4-17. Re-inspection, Field Citation and Formal Enforcement Actions**

- (a) On or after the date that the violation is to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.
- (b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist may:
- (1) Refer the violation to the PSTD Compliance and Inspection Manager or the Director's designee who may initiate Formal Enforcement Action or issue a Field Citation; and/or
  - (2) Shut down the storage tank ~~facility-system~~ pending a-correction of the problem or a hearing on the issue.

**165:26-4-18. Issuance of a Field Citation and payment of fine or hearing**

- (a) The storage tank owner or operator can either pay the amount of the fine as stated in the Field Citation or request a hearing.
- (b) The tank owner or operator will have thirty (30) days from the date the Field Citation was issued to pay the fine.
- (1) A fine may be paid with cash, a money order, check or electronic method approved by the Commission. Any cash payment must be made at the Commission cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the Field Citation must be sent with the payment to ensure proper credit.
  - (2) Payment of the citation within the thirty (30) day time frame will not be considered an agreement or disagreement with the Field Citation.
- (c) If the storage tank owner or operator disagrees with the Field Citation, they may appear at the hearing at the Commission as provided on the Field Citation. ~~If found guilty at the hearing in violation of PSTD rules at the time the Commission order is issued,~~ the tank owner or operator must pay the amount of the fine, as well as an administrative cost of \$250.00.
- (d) ~~If a Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine will double. Refusal to comply with an order of the Commission may result in an additional fine being levied after notice and hearing in an amount as allowed by law, and shutdown of the facility-storage tank system for failure to pay fines.~~
- (e) Failure of a tank owner or operator to appear at the hearing may result in additional enforcement action.
- (f) ~~An appeal from~~ Any exceptions to the hearing may be made in accordance with OAC 165:5.
- (g) A tank owner or operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.



## **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 may appear at the hearing at the Commission. If found ~~guilty at the hearing~~ in violation of PSTD rules at the time the Commission order is issued, the person must pay the amount of the fine, as well as an administrative cost of \$250.00.

## **SUBCHAPTER 8. REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS UTILIZED BY MARINAS**

### **PART 15. DISPENSER REQUIREMENTS**

#### **165:26-8-62. Nozzles**

Dispensing nozzles used at marinas must be the automatic closing type. Hold-open latch devices from nozzles for marina service are not allowed.

**APPENDIX G. FIELD CITATIONS TABLE [REVOKED]  
APPENDIX G. FIELD 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).

<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
<b>Registration &amp; Permit Requirements</b>		
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
<b>Notification Requirements</b>		
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
<b>Required Reports</b>		

165:26-1-57	Failure to submit tank closure report within 45 days	\$250
<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
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
<b>General Leak Detection Requirements</b>		
165:26-1-55	Failure to maintain records of release or leak detection monitoring	\$250
165:26-1-58		
165:26-1-56	Failure to retain records of calibration, maintenance, and repair of release or leak detection equipment	\$250
165:26-3-19	Failure to provide adequate release or leak detection for storage tank system	\$250
165:26-3-20		
	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	Failure to use approved release or leak monitoring method for piping	\$250
165:26-3-20.2		
<b>Spill &amp; Overfill Prevention</b>		
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
<b>Operation and Maintenance of Corrosion Protection</b>		
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
<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
165:26-2-42	Failure to test cathodic protection system within 6 months installation or repair	\$250
<b>Release Investigation &amp; Confirmation</b>		
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
<b>Temporary Closure</b>		
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
<b>Permanent Closure</b>		
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
<b>Repairs</b>		
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
<b>Other</b>		
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
<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
<b>Administrative Penalty</b>	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.	