

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 201900006

**CHAPTER 25 RULES ADOPTED BY THE COMMISSION
AT A PUBLIC HEARING ON DECEMBER 10, 2019**

**TITLE 165. CORPORATION COMMISSION
CHAPTER 25. UNDERGROUND STORAGE TANKS**

SUBCHAPTER 1. GENERAL PROVISIONS

PART 3. DEFINITIONS

165:25-1-11. Definitions

In addition to the terms defined in 17 O.S. §§ 303 and 348, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

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

"Airport" means landing facility for aircraft that 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.

"Airport hydrant system" means an underground storage tank system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one (1) or more hydrants (fill stands). The airport hydrant system begins where fuel enters one (1) or more tanks from an external source, such as a pipeline, barge, rail car, or other motor fuel carrier.

"ATG" means automatic tank gauge.

"Ball float functionality" means the ball float is operational as designed.

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

"Bulk plant" means a 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 distribution by a tank vessel, 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 ~~(OCC) 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 petroleum storage tank system under conditions likely to be encountered in the system.

"Construction tank" means a fuel tank used for twelve (12) months or less 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.

"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.

"Field constructed tank" means a tank constructed in the field such as a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field.

"Financial responsibility" shall have the same meaning in this Chapter as in 40 CFR 280 Subpart H.

"Financial security" means holding financial security in a tank system or facility site and is not considered ownership of a tank system unless certain criteria of 40 CFR 280 Subpart H is met.

"Fleet and Commercial" means any facility as defined in this Chapter that uses underground 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 Oklahoma Administrative Code (OAC) 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Gathering lines" means a gathering line or gathering system as defined in OAC 165:45-1-

2.

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

"Inert material" means a solid, motionless substance that is neither chemically nor biologically reactive, is denser than water, and will not decompose. Examples of inert material include sand and concrete, or as otherwise approved by PSTD staff.

"Lender liability" shall have the same meaning in this Chapter as in 40 CFR 280 Subpart I.

"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.

"Observation Well" means a cased and screened boring or drilled hole, installed within the tank excavation or piping trench that can be used for the continuous or periodic evaluation of groundwater quality or the detection of soil vapors as a method of release detection.

"Operational life" means the period beginning from the time installation of the tank or system is commenced until it is properly closed or removed as provided for in this Chapter.

"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.

"Out of Order tag" means tag, device or mechanism on the tank fill pipe that clearly identifies an underground storage tank as ineligible for delivery of product.

"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. ~~A~~ 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.

"OWRB" means the Oklahoma Water Resources Board.

"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.

"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 part of the airstrip owner's residential property.

"PST" means ~~petroleum storage tank.~~

"PSTD" means Petroleum Storage Tank Division.

"Public Utility" means ~~any entity providing gas, electricity, water, or telecommunications 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 substance" 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 or system into the environment or into the interstitial area between the underground 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.

"Secondary containment" means an underground storage tank and/or piping with inner and outer barriers which provide a space for interstitial (the space between the inner and outer walls of a double walled tank or piping) monitoring.

"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 an underground storage tank system's integrity.

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

"TPH" means total petroleum hydrocarbons.

"Underground storage tank" or **"UST"** or **"tank"** means a regulated storage tank and the individual compartments, including underground piping, "storage tank" as defined in 17 O.S. § 303(40) that has ten percent (10%) or more of its volume beneath the surface of the ground.

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

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

PART 6. ADMINISTRATIVE PROVISIONS

165:25-1-26.1. 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, 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 9. NOTIFICATION AND REPORTING REQUIREMENTS

165:25-1-41. General reporting requirements

PSTD requires owners or operators of underground storage tank systems to provide information it deems necessary for the protection of human health, safety, property and the environment. Use of the designated PSTD online format is required for reporting, scheduling, tank registration, change in ownership, release detection, testing, temporary change in service, permanent closure, or return to service. Owners and operators must notify PSTD within thirty (30) days when their mailing address changes or tank status changes. Owners and operators of

underground petroleum storage tank systems must notify PSTD at least thirty (30) days prior to switching to regulated substances containing greater than ten percent (10%) ethanol or regulated substances containing greater than 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, PSTD webpage: www.oceweb.com; follow the link to Petroleum Storage Tank Division and the link to PSTD 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.

165:25-1-42. New tank systems

- (a) Persons intending to install a new underground storage tank and/or new 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 notification ~~form in the online format established by PSTD~~ and receiving confirmation of the installation from PSTD. If events require a change in the date of installation, PSTD shall be given forty-eight (48) hours notice of the new date. Any underground 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~~ scheduled installation 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 is site specific and 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 Licensed UST Installer 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 Commission-licensed UST Installers must certify on the registration ~~form~~ that the installation of tanks and piping meet the requirements of this Chapter.

PART 17. LICENSING PROCEDURES

165:25-1-107. License penalties

- (a) The PSTD has 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 work performed pursuant to this Chapter.
 - (3) Knowingly making false statements or signing false statements, certificates or affidavits to the 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 that was not performed by the 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 165:26, 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 required PSTD paperwork, test results, and/or reports in the format established by PSTD within the required timeframe may result in enforcement action.~~
- (b) Failure to submit required PSTD paperwork, test results, and/or 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 UNDERGROUND STORAGE TANK SYSTEMS

PART 1. CODES AND STANDARDS

165:25-2-2. Incorporated codes and standards

Specific references to documents are made in this Chapter. Each of these documents or part thereof is included by reference as a standard. New editions of codes and standards supersede all previous editions. Commission rules will supersede in all conflicts between PSTD rules and any industry standard. These codes and standards will be updated periodically through a formal rulemaking procedure initiated by PSTD to reflect any substantive or relevant changes.

- (1) National Fire Protection Association Standards:
 - (A) Standard Number 30, 2018, "Flammable and Combustible Liquids Code."
 - (B) Standard Number 329, 2015, "Handling Releases of Flammable and Combustible Liquids and Gases."
 - (C) Standard Number 385, 2017, "Tank Vehicles for Flammable and Combustible Liquids."
 - (D) Standard Number 326, 2015, "Safeguarding Tanks and Containers for Entry, Cleaning and Repair."
 - (E) Standard Number 30A, 2018, "Motor Fuel Dispensing Facilities and Repair Garages."
- (2) American Petroleum Institute Standards
 - (A) Recommended Practice 1615, (2011), "Installation of Underground Hazardous Substances or Petroleum Storage Systems, Sixth Edition."
 - (B) Recommended Practice 1632, (R2010), "Cathodic Protection of Underground Storage Tank and Piping Systems."

- (C) Recommended Practice 1604, (R2010), "Closure of Underground Petroleum Storage Tanks, Third Edition."
- (D) Recommended Practice 1631, (2001), "Interior Lining and Periodic Inspection of Underground Storage Tanks."
- (E) Recommended Practice 1621, (R2012), "Bulk Liquid Stock Control at Retail Outlets."
- (F) Recommended Practice 1626, (2010), "Storing and Handling Ethanol and Gasoline - Ethanol Blends at Distribution Terminals and Service Stations."
- (G) Recommended Practice 1627, (R2000), "Storing and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."
- (H) Publication 1628, (1996), "A Guide to the Assessment and Remediation of Underground Petroleum Releases."
- (I) Publication 2200, (2015), "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines, Fourth Edition."
- (J) Publication 2015, (2018), "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."
- (K) Recommended Practice 1637, (R2012), "Using the API Color Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, Third Edition."
- (3) National Association of Corrosion Engineers:
 - (A) Standard Number SP0169-2013, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."
 - (B) Standard Number SP0285-2011, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."
 - (C) Standard Number SP0286-2007, "Electrical Isolation of Cathodically Protected Pipelines."
 - (D) International Test Method, TM 0101 2012, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems."
 - (E) International Test Method, TM 0497 2012, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems."
- (4) Underwriter's Laboratory Standards:
 - (A) Standard UL58, 2018, "Steel Underground Tanks for Flammable and Combustible Liquids."
 - (B) Standard UL1316 Bulletin 2013, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures."
 - (C) Standard UL1746 Bulletin 2013, "External Corrosion Protection Systems for Steel Underground Storage Tanks."
 - (D) Standard UL567 Bulletin-2012, "Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas."
 - (E) Standard UL971 Bulletin 2011, "Nonmetallic Underground Piping for Flammable Liquids."
- (5) American Society for Testing Materials:
 - (A) ASTM E1739-95 (2015), "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."
 - (B) ASTM G158-98 (2016), "Three Methods of Assessing Buried Steel Tanks."
- (6) Petroleum Equipment Institute:

- (A) PEI/RP 100-17 (2017 Edition) "Recommended Practices for Installation of Underground Liquid Storage Systems."
- (B) PEI/RP 400-18 (2018 Edition), "Recommended Practices for Equipment Testing Electrical Continuity of Fuel Dispensing Hanging Hardware."
- (C) PEI/RP 500-11 (2011 Edition), "Recommended Practice for Inspection and Maintenance of Motor Fuel Dispensing Equipment."
- (D) PEI/RP 900-17 (2017 Edition), "Recommended Practices for the Inspection and Maintenance of UST Systems."
- (E) PEI/RP 1200-17 (2017 Edition), "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."
- (F) PEI/RP 1700 (2018 Edition), "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems."
- (7) Steel Tank Institute:
 - (A) STIP3®, "Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks."
 - (B) STI-R892-91, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."
 - (C) STI-R894-91, "Specification for External Corrosion Protection of FRP Composite Underground Steel Storage Tanks."
 - (D) RP-972-10, "Recommended Practice For The Addition of Supplemental Anodes to STI-P3 USTs."
 - (E) STI-ACT-100-U®, F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks".
 - (F) STI-F841, "Standard for Dual Wall Underground Steel Storage Tanks."
 - (G) STI-F922, "Specification for Permatank®."
 - (H) RP-R051, "Cathodic Protection Testing Procedures for STI-P3® Underground Storage Tank Systems."
- (8) Factory Mutual 1920, "Flexible Pipe Couplings."
- (9) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension, Existing Steel UST by Lining without Additional Cathodic Protection."
- (10) National Groundwater Association, 1986, "RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD)."
- (11) U.S. Environmental Protection Agency Office of Water, 1997, Drinking Water Advisory: "Consumer Acceptability Advice on Health Effects Analysis on Methyl Tertiary-Butyl Ether (MTBE)."
- (12) Ken Wilcox Associates, Inc., First Edition: "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

PART 5. PROTECTION AGAINST CORROSION

165:25-2-53.1. Underground storage tank internal lining requirements

- (a) A previously lined steel tank that fails precision tightness testing or an internal lining inspection shall not be repaired and must be removed.
- (b) Tank lining may not be used as a method of repair for an unlined tank.

(c) Within 10 years after lining, and every five years thereafter, lined USTs must be internally inspected and found to be structurally sound, with the lining still performing in accordance with original design specifications.

(d) Standards that must be referenced during the periodic inspection of lined USTs:

(1) American Petroleum Institute (API) Publication 1631.

(2) Ken Wilcox Associates, Inc. "Recommended Practices for Inspecting Buried Lined Steel Tanks Using a Video Camera," First Edition, 1999, Methods A and D.

(3) National Leak Prevention Association Standard 631.

(4) PSTD Internal Tank Lining Guidance document and PSTD Interior Lining Inspection Form are available on ~~OCC~~ the Commission website at ~~www.occweb.com~~.

(e) UST owners/operators must submit to PSTD a copy of the certificate of performance (Interior Lining Inspection Form) completed by the inspection provider attesting that the UST meets the performance requirements for both the UST and the lining material. Any UST failing to meet the specified performance requirements cannot be relined. Minor imperfections may be repaired and the tank must be upgraded with a cathodic protection system within six months of the lining repair, or be removed.

(f) USTs upgraded by the addition of both internal lining and cathodic protection do not require internal periodic inspection if the cathodic protection system has been properly installed and maintained on the UST system.

(g) Tank owners or their representative must provide 48 hour notification for all lining inspections to PSTD by submitting the PSTD scheduling form in the online format established by PSTD.

PART 6. PIPING

165:25-2-55.2. Vent piping requirements

(a) Where vent pipes installed prior to July, 2003, from tanks storing gasoline are adjacent to buildings or public ways, they must be located not less than twelve feet (12') (3.6 meters) above the adjacent ground level or three feet (3') above the roof line at the highest point of attachment. Newly installed vent pipes must be five feet (5') above the roof or canopy. All vent pipes buried below ground must be a minimum of eighteen inches (18").

(b) In order to aid in dispersion, vapors must be discharged upward. Vent outlets must be located so that flammable vapors will not accumulate to an unsafe location or trapped under eaves and shall be at least five feet (5') (1.5 meters) from building openings and fifteen feet (15') (4.5 meters) from powered ventilation air intake devices).

(c) All new or replacement underground vent piping must be non-metallic. Aboveground vent risers must be steel pipe.

(d) Vent risers must be located or protected and anchored, to prevent damage from traffic, wind, or testing procedures.

PART 7. DISPENSERS

165:25-2-75.1. Display on dispenser

(a) Every dispenser or delivery device regulated by the Commission used for the 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".

PART 13. REMOVAL AND CLOSURE OF UNDERGROUND STORAGE TANK SYSTEMS

165:25-2-135. Permanent closure

All underground storage tanks and associated piping out of service/use for more than twelve (12) months must be removed if they do not comply with the requirements as stated in 165:25-2-133 and 165:25-2-134. A variance to close a tank and/or associated piping in place with a PSTD approved inert material must be made by application and administrative review in accordance with OAC 165:5-21-3.1. For a closure in place variance solely on the basis of financial concerns between the cost to remove and the cost to close in place, applicant must submit three (3) bids to remove and three (3) bids to close in place with their variance application. A variance is effective on order issuance.

SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION REQUIREMENTS

PART 2. RELEASE DETECTION REQUIREMENTS AND METHODS

165:25-3-6.25. Interstitial monitoring

- (a) For double-walled underground storage tank systems, the sampling or testing method must be capable of detecting a leak at least every thirty (30) days through the inner wall in any portion of the tank that routinely contains product in accordance with the manufacturer instructions.
- (b) On new installations, the containment sumps used for interstitial monitoring of piping must be tested at installation and using a PSTD approved testing method that tests the sump above the highest penetration or sump sidewall seam. After initial testing, sumps must be tested at least once every three (3) years for liquid tightness or use double-walled containment sumps with periodic interstitial monitoring of the space between the two (2) walls of the sump at least every thirty (30) days. Records demonstrating compliance must be maintained for three (3) years.
- (c) Existing systems must have the containment sumps tested for liquid tightness by October 13, 2018, and at least once every three (3) years thereafter or use double-walled containment sumps with periodic interstitial monitoring of the space between the two (2) walls of the sump at least every thirty (30) days. Owners and operators using a low liquid level test must ensure that when the sensor is activated the alarm activates, and verify the submersible pumps automatically shut off when the liquid activates the sensors. Sensors must be mounted and positioned at the lowest point in the sumps. Low liquid level UST sump testing must be performed according to the procedures set forth on the Commission's Containment Sump Alternative Test form. Records demonstrating compliance must be maintained for three (3) years.
- (d) Beginning October 13, 2018, owners and operators must perform operation and maintenance tests on electronic and mechanical components of release detection equipment. This testing must be conducted according to the manufacturer's instructions or a code of practice developed by a nationally recognized association or independent testing laboratory. A test of the proper operation

must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

- (1) Automatic tank gauge and other controllers: test alarm, verify system configuration, test battery backup.
 - (2) Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller.
 - (3) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller.
 - (4) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.
- (e) Owners and operators must maintain records of the annual operation tests for three (3) years. At a minimum, records must list each component tested, indicate whether each component meets the criteria listed above or needed to have action taken, and describe any action taken to correct an issue.

PART 3. RELEASE INVESTIGATION REQUIREMENTS

165:25-3-7.1. Release reporting

(a) The reporting requirements of this Part do not relieve the owner/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.

(b) All underground 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.com~~ (PSTReleaseReporting@occemail.com) ~~on the Commission website; by email at 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 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, such as the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the underground storage tank system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems, unless the system equipment or component is found not to be releasing regulated substances to the environment; any defective system equipment or component is immediately repaired or replaced; for secondarily contained systems any liquid in the interstitial space not used as part of the interstitial monitoring method (for example brine filled) is immediately removed.

(A) In the case of inventory control, two 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 discovering the inventory control results.

(B) Any UST system failure from a third party-certified Statistical Inventory Reconciliation (SIR) analysis must be reported to PSTD by the owner, operator, or agent within twenty-four (24) hours of discovering the failure. An immediate investigation into the cause of the failed report must be conducted and results reported to PSTD within seven (7) days.

(C) An "Inconclusive" report from an SIR analysis must be reported by the owner, operator, or agent within twenty-four (24) hours of report generation. An Inconclusive means that the UST system has failed to meet leak detection requirements for that month thirty (30) day period.

(3) An unusual level of vapors on the site that is of unknown origin. A vapor observation well reading in excess of 4,000 units/ppm from a pit containing gasoline tanks, and in excess of 1,500 units/ppm for a pit containing diesel or both gasoline and diesel, must be reported to PSTD within twenty-four (24) hours by the owner/operator, their employees, or agents discovering the monitoring results. Within ten (10) days, the owner/operator must submit to PSTD all vapor monitoring well data for the last twelve (12) thirty (30) day periods. Upon examination of the submitted data, PSTD will advise the owner/operator what action, if any, is needed.

(4) An increase in vapor levels of 500 units/ppm above background or historical levels detected by thirty (30) day monitoring, even though below the twenty-four (24)-hour reporting level, must be reported if the increase does not correct itself in the second thirty (30) day period of monitoring and it must be reported to PSTD within twenty-four (24) hours of the owner, operator, their employees, or agents discovering the monitoring results.

(5) Monitoring results, including investigation of an alarm, from a release detection method required by this Chapter that indicate a release may have occurred unless:

(A) The monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result;

(B) The leak is contained in the secondary containment and;

(i) Any liquid in the interstitial space not used as the interstitial monitoring method is immediately removed.

(ii) Any defective system equipment or component is immediately repaired or replaced.

(C) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

(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/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, their employees, or agents, with a written confirmation to PSTD 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 which is less than twenty-five (25) gallons, but cannot be contained and cleaned up within twenty-four (24) hours.

(d) All owners/operators of underground storage tank systems must maintain records of all reportable and nonreportable 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 above are not reported within twenty-four (24) hours, the owner/operator may be subject to fines, Formal Enforcement Action 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 5. UPGRADES

165:25-5-1. Alternatives allowed

No later than December 23, 1998, owners/operators of existing underground storage tank systems shall:

- (1) Comply with the requirements for new underground storage tank systems under Subchapter 2 of this Chapter; or
- (2) Comply with the upgrading requirements in OAC 165:25-5-2 and 165:25-5-3; or
- (3) Permanently close the underground storage tank system and take any necessary corrective action, in accordance with this Chapter.

SUBCHAPTER 8. SPECIAL REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS UTILIZED BY MARINAS

PART 5. DISPENSER REQUIREMENTS

165:25-8-15. Nozzles

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

SUBCHAPTER 18. INSPECTIONS, NOTICES OF VIOLATION, FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

PART 3. NOTICES OF VIOLATION, FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

165:25-18-11. 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 advise that further PSTD enforcement action may

occur if the violation is not corrected. If the violation cannot be corrected, the violation will be referred to the PSTD Compliance and Inspection Manager or Director's designee who may initiate Formal Enforcement Action or issue a Field Citation.

(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 the person can correct it.

(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 PSTD Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the PSTD Fuel Specialist questions.

(c) NOV(s) are issued to the owner/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 delivered to the owner and/or operator.

165:25-18-12. Re-inspection, Field Citation and Formal Enforcement Action

(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.

165:25-18-13. Issuance of a Field Citation and payment of fine or hearing

(a) The storage tank owner/operator can either pay the amount of the fine as stated in the Field Citation or request a hearing.

(b) The tank owner/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, money order, check or electronic method approved by the Commission. Any cash payment must be made at the Commission's 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 a fine within the thirty (30) day timeframe will not be considered an agreement or disagreement with the Field Citation.

(c) If the storage tank owner/operator disagrees with the Field Citation, they may appear at the ~~Field Citation hearing~~ at the Commission as provided in 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 tank system~~ for failure to pay fines.

- (e) Failure of a tank owner/operator to appear at the hearing may result in additional enforcement action.
- (f) ~~An appeal from~~ Any exceptions to the hearing must be made in accordance with OAC 165:5.
- (g) A tank owner/operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.

PART 5. PENALTIES

165:25-18-19. Penalties

- (a) Pursuant to 17 O.S. § 311(A), any person who violates any of the provisions of this Chapter shall be liable for a 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.

**APPENDIX S. FIELD CITATIONS TABLE [REVOKED]
APPENDIX S. 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, not to exceed the statutorily set limitations in 17 O.S. § 311(A).

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:25-1-41	Failure to amend registration within 30 days to reflect changes or tank status	\$500
165:25-1-42	Failure to register tanks within 30 days of bringing the system into service	\$500
165:25-1-42	Operating a tank without a valid permit	\$1,000
165:25-1-51	Failure to amend registration within 30 days to reflect change in ownership	\$500
165:25-1-64	Failure to pay permit fees prior to due date	Not > 50% of fee
165:25-1-126	Failure to certify training for all operator classes, per owner not facility	\$500
165:25-1-126	Second offense within 12 months Third offense thereafter, formal enforcement	\$1,000
Notification Requirements		
165:25-1-41	Failure to properly identify all storage tank systems in the online format established by PSTD after second request, including a letter advising tank owner of the penalty	\$1,000
165:25-1-42	Failure to notify PSTD prior to tank installation	\$500
165:25-1-42	Failure to provide installation information in the online format established by PSTD after second request, including a letter advising tank owner of the penalty	\$1,000
165:25-1-48	Failure to report tank and line tightness test results as required	\$500
165:25-2-131	Failure to notify PSTD prior to tank and/or line closure	\$500

Rule	Violation	Fine Amount
165:25-3-7.1	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 or a spill or overfill over 25 gallons has occurred	\$250
Required Reports		
165:25-1-41	Failure to submit required PSTD paperwork, test results, and/or reports in the required online format and timeframe	\$250
	Second offense	\$500
	Third offense	\$750
165:25-1-55(c)	Failure to submit tank closure report within 45 days	\$250
165:25-3-8(d)	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		
165:25-1-53 165:25-1-54	Failure to retain records of calibration, maintenance, and/or repair of release or leak detection equipment	\$250
165:25-1-53(c)	Failure to maintain results of sampling, testing, or monitoring	\$250
165:25-1-53(d)(1)	Failure to maintain records of release or leak detection monitoring	\$250
165:25-3-6.20	Failure to provide adequate release or leak detection for storage tank system	\$250 (per period)
	Second offense or formal enforcement	\$500
	Third offense or formal enforcement	\$1,000
165:25-3-6.21	Failure to use an approved method of release or leak detection method for tanks	\$250
165:25-3-6.23	Failure to use a licensed technician for monitoring vapor wells as required	\$250
165:25-3-6.24	Failure to use a licensed technician for monitoring groundwater wells as required	\$250
165:25-3-6.29	Failure to use an approved method of release or leak detection monitoring for piping	\$250

Rule	Violation	Fine Amount
Spill Protection & Overfill Prevention		
165:25-2-39(e)(1)	Tank owner/operator accepting delivery into UST without spill protection	\$1,000
165:25-2-39(e)(2)	Tank owner/operator accepting delivery into UST that does not have overfill prevention	\$1,000
Operation & Maintenance of Corrosion Protection		
165:25-1-56(b)	Failure to maintain records of cathodic protection installation, repair, inspections or testing	\$250
165:25-1-56(b)(1)	Failure to provide cathodic protection system design or suitability study	\$1,000
165:25-2-51	Tank owner/operator accepting delivery into a UST that does not have a required corrosion protection system	\$1,000
165:25-2-52 165:25-2-53 165:25-2-53.1	Failure to properly operate and maintain corrosion protection, inspect tank lining, or make necessary repairs	\$150
	Second offense or formal enforcement	\$500
	Third offense or formal enforcement	\$1,000
165:25-2-53(a)	Failure to test cathodic protection system within 6 months of installation or repair	\$250
165:25-2-53(a)	Failure to use a qualified cathodic protection tester to certify corrosion protection system operation at least once every 3 years	\$500
	Second offense or formal enforcement	\$1,000
165:25-2-53(c)	Failure to properly and/or timely test corrosion protection every 60 days	\$250 (per period)
Release Investigation		
165:25-3-7.1	Failure to clean up a spill or a spill resulting from overfill over 25 gallons	\$500
165:25-3-8	Failure to investigate a spill or a spill resulting from overfill over 25 gallons	\$100
165:25-3-8	Failure to conduct tightness test(s) to investigate suspected leak(s) from the storage tank system as required	\$250
Temporary Closure		
165:25-2-133(a)(1)	Failure to operate and maintain corrosion protection in a temporarily closed storage tank system as required	\$500

Rule	Violation	Fine Amount
165:25-2-133(c)(2)	Failure to provide adequate release or leak detection as required in a temporarily closed storage tank system	\$250
165:25-2-133(c)(3)	Failure to properly vent a temporarily closed storage tank system as required	\$250
165:25-2-133(c)(4)	Failure to cap and secure all storage tank related equipment for temporary closure	\$250
Permanent Closure		
165:25-2-131(d)	Failure to use a PSTD licensed UST Remover	\$500
165:25-2-135	Failure to remove tank system that has been out of service in excess of 12 months and does not comply with the requirements as stated in 165:25-2-133 and 165:25-2-134	\$500/tank
165:25-2-136	Failure to measure for the presence of a release before permanent closure as required	\$500
165:25-2-136(d)	Failure to use a PSTD licensed Environmental Consultant	\$500
165:25-5-1	Failure to upgrade UST with CP by December 1998 deadline or remove tank within 12 months of December 1998 deadline	\$500/tank
Operation & Maintenance		
165:25-1-53(d)(8)	Failure to provide records of annual operation and maintenance tests of release detection	\$250
165:25-1-57(b)	Failure to provide records of overfill prevention inspections and spill prevention equipment testing	\$250
165:25-1-60	Failure to provide records of walkthrough inspections	\$250
Repairs		
165:25-1-54	Failure to maintain repair records for operating life of storage tank	\$250
165:25-2-36 165:25-2-111	Failure to use a PSTD licensed UST Installer or repair person for installation or repair as required	\$500
	Second offense (per owner, not per facility)	\$1,000
165:25-2-40 165:25-2-111	Failure to perform tightness test on storage tank system after installation or repair	\$300

Rule	Violation	Fine Amount
Other Violations		
165:15-7-1	Misrepresentation of octane level per location	\$500
	Second offense within one year	\$1,000
	Third offense – Closure and formal enforcement	\$5,000
Administrative Penalty	Any owner/operator of a storage tank system who fails to comply with any requirement or 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.	