BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING **OAC 165:29, CORRECTIVE ACTION OF PETROLEUM STORAGE TANK RELEASES**

CAUSE NO. RM 201900009

CHAPTER 29 RULES ADOPTED BY THE COMMISSION AT A PUBLIC HEARING ON DECEMBER 10, 2019

TITLE 165. CORPORATION COMMISSION
CHAPTER 29. CORRECTIVE ACTION OF PETROLEUM STORAGE TANK RELEASES

SUBCHAPTER 1. GENERAL PROVISIONS

PART 3. DEFINITIONS

165:29-1-11. Definitions

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

"ANSI" means the American National Standards Institute.

"API" means the American Petroleum Institute.

"ASTM" means the American Society for Testing and Materials.

"Aboveground release" means any release to the surface of the land or to surface water. It includes, but is not limited to, releases from the aboveground portion of an underground storage tank system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank system.

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

"Aquifer" means a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs. This implies an ability to store and transmit water for beneficial uses.

"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.

"Backfill" refers to only the material placed in the excavation zone to support the petroleum storage tank system.

"Belowground release" means any release to the subsurface of the land or to groundwater. It includes, but is not limited to, releases from belowground portions of petroleum storage tank systems and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from underground storage tank systems. "Belowground release" does not include releases to a secondary containment system.

~~**"Beneath the surface of the ground"** means beneath the ground's surface or otherwise covered with materials so that physical inspection is precluded or impaired.~~

"Beneficial uses" means a classification of the waters of the State, according to their best uses in the interest of the public.

"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.

"Chemicals of Concern" or **"COC"** means chemicals that may pose a threat to human health and the environment.

~~**"COC"** means Chemical of Concern.~~

"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 petroleum storage tank system under conditions likely to be encountered in the system.~~

"Confirmed Release" means a release of a regulated substance from a regulated storage tank system resulting in free product, contaminated soils or groundwater that exceed state action levels, organic vapor readings significantly above background levels, petroleum staining or odors or any other indication that a release has occurred that could be harmful to human health, safety or the environment and to which a PSTD case number is assigned and further corrective action is required.

~~**"Contaminants"** or **"contamination"** means concentrations of regulated substances or dissolved compounds therefrom at levels that may cause adverse human health or environmental effects.~~

~~**"Corrective action"** means action taken to assess, monitor, minimize, eliminate or clean up a release from a storage tank system.~~

"Corrective Action Plan" means any plan submitted to the Division detailing the method and manner of corrective action to be taken for a release.

~~**"DAF"** means Dilution Attenuation Factor.~~

~~**"DEQ"** means the Oklahoma Department of Environmental Quality.~~

~~**"DWS"** means Drinking Water Standards.~~

~~**"de minimis"** means, for the purposes of this Chapter, very small, as in very small amounts or concentrations of regulated substances.~~

"Dielectric material" means a material that does not conduct direct electric current. Dielectric coatings are used to electrically isolate underground storage tank systems from the surrounding area. Dielectric bushings are used to electrically isolate portions of the underground storage tank system (e.g., tank from piping).

~~**"Dilution Attenuation Factor"** or **"DAF"** means a unitless number greater than or equal to unity and represents the ratio of dissolved phase concentration at a downgradient location to the concentration at an upgradient location. It represents the reduction in concentration due to the combined influence of several factors (diffusion, dispersion, adsorption, decay, volatilization). It is applicable for all media, but is most commonly used for the unsaturated and saturated zones. DAF is generally estimated using a fate and transport model or based on site-specific data.~~

~~**"Director"** means the Director of the Petroleum Storage Tank Division of the Corporation Commission.~~

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

"EPA" means the United States Environmental Protection Agency.

~~**"Electrical equipment"** means underground equipment that contains dielectric fluid necessary for the operation of equipment such as transformers and buried electric cable.~~

"Electronic signature" means ~~any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content~~ an electronic signature as defined by OAC 165:5-1-3.

~~**"Environment"** means any water, water vapor, any land including land surface or subsurface, fish, wildlife, air and atmosphere, and all other natural resources.~~

"Environmental experience" means work-related experience in any type of activities associated with soil, water or atmosphere impacted or potentially impacted by a PSTD regulated substance.

"Excavation zone" means the volume containing the underground storage tank system and backfill materials, bounded by the ground surface, walls, and floor of the pit and trenches into which the underground storage tank system is placed at the time of installation.

~~**"Facility"** means any location or part thereof consisting of one (1) or more petroleum storage tanks or systems containing regulated substances.~~

~~**"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.~~

~~**"FOC"** means fraction organic carbon content.~~

~~**"Fraction organic carbon content"** or **"FOC"** means the fraction of organic carbon in soil that influences the adsorption of organic chemicals. It can be estimated in soils using high temperature combustion and oxidation techniques such as ASTM method D2974.~~

"Free product" means a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

"Fresh groundwater" means groundwater with total dissolved solids (TDS) less than five thousand (5,000) parts per million.

"Fund" means the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund.

~~**"Gathering lines"** means any pipeline, equipment, facility, or building used in the transportation of oil or gas during its production or gathering operations.~~

"Groundwater" means that part of water that is below the water table.

~~**"Half-life"** means the time required for the decay or transformation of one half (1/2) of the amount of a chemical.~~

"Hazard Index" means the sum of the Hazard Quotients.

"Hazard Quotient" means the estimated dose, or intake, for a specific chemical and a specific pathway, divided by the Reference Dose (RfD).

"Impervious barrier" means a barrier of sufficient thickness, density, and composition that is impenetrable to the regulated substance, has a permeability of at least 1×10^{-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.

"In service" means a petroleum storage tank that is not abandoned, or could contain regulated substances, and/or has regulated substances regularly added to or withdrawn from it.

"Inventory controls" means techniques used to identify a loss of regulated substances that are based on volumetric measurements in the tank and reconciliation of those measurements with product delivery and withdrawal records.

"Licensed Environmental Consultant" means an individual who has a current license issued by the Petroleum Storage Tank Division to perform corrective action.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil or gas production, gathering, and extraction operations (including gas production plants) to collect oil, water, and other liquids. Liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"MCL" means Maximum Contaminant Level.

"MtBE" means methyl tertiary butyl ether.

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

~~**"Motor fuel"** means any petroleum product, oxygenate, or blend of products, that is suitable for use as a fuel in an internal combustion or diesel engine.~~

"Monitor well" means a piezometer or other cased and screened excavation, boring or drilled hole installed in any way that can be used for the continuous or periodic evaluation of groundwater quality or the detection of soil vapors.

"NACE" means the National Association of Corrosion Engineers.

"NFPA" means the National Fire Protection Association, Inc.

~~**"NPDES"** means the National Pollutant Discharge Elimination System.~~

"Occurrence" means the release of a PSTD regulated substance into the soil or groundwater. Each PSTD regulated substance will be treated as one (1) occurrence regardless of the composition of the substance released. Separate occurrences of the same PSTD regulated substance may be allowed if evidence establishes that the PSTD regulated substance occurred in two (2) different tank systems locations, are separated by time, or both.

"ORBCA" or **"Oklahoma Risk-Based Corrective Action"** means a scientific risk-based analysis that governs petroleum storage tank site assessment and remediation. It determines acceptable concentration levels of petroleum constituents in order to protect the public health, safety or welfare or the environment.

~~**"OSDA"** means the Oklahoma State Department of Agriculture.~~

~~**"OWRB"** means the Oklahoma Water Resources Board.~~

~~**"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.~~

"Overfill" means a release that occurs when a petroleum storage tank is filled beyond its capacity, resulting in a discharge of regulated substance to the environment.

"PEI" means the Petroleum Equipment Institute.

"POC" means Point of Compliance.

"POE" means Point of Exposure.

"PSI" means pounds per square inch.

"PSTD" means Petroleum Storage Tank Division or Division.

~~**"Pay-for-Performance"** or **"PFP"** means a process where an environmental consulting company (Consultant) guarantees by signing a mutual agreement (the contract) that a release of a regulated substance will be remediated to COC levels agreed to by the PSTD and the Consultant that are protective of human health, safety and the environment. This performance-based process encompasses several steps, but is not limited to the contract signed by an officer/owner of the environmental consulting company, the applicant and the Administrator of the Indemnity Fund and an agreed to reasonable price. Scheduled payments are distributed only as performance-based goals are attained.~~

"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.

"Petroleum" means ~~antifreeze, motor oil, gasoline, diesel, aviation fuel, and/or volatile blending materials used in motor fuels, like kerosene and ethanol and used oil~~ the substances as set forth in 17 O.S. § 303(31). It does not include 100% biodiesel, compressed natural gas, liquid natural gas, methanol, or propane.

"Pipe" or **"Piping"** means a hollow cylinder or tubular conduit constructed of non-earthen materials.

"Pipeline facilities" means new and existing pipe rights-of-way and any equipment, facilities, or buildings regulated under:

(A) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671, et seq.).

(B) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 2001, et seq.).

(C) The State Hazardous Liquid Transportation System Safety Act, § 47.1 et seq. of Title 52of the Oklahoma Statutes.

(D) Intrastate pipeline facilities regulated under state laws.

"Point of Compliance" means a select location where the concentration of a chemical released must be at or below back-calculated levels. The back-calculated levels are such that estimated concentrations at the Point of Exposure are below health-based levels.

"Point of Exposure" means a location at which an individual or population may be exposed to site-specific Chemicals of Concern through ingestion, inhalation and/or dermal contact.

"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 a release from a petroleum storage tank system may have occurred.

"Potency Factor" means the plausible upper-bound estimate of the probability of a response (cancer) per unit intake of chemical over a lifetime. Also referred to as Slope Factor.

"RBCA" means Risk-Based Corrective Action.

"RfD" means Reference Dose.

"Reasonable Maximum Exposure" or **"RME"** means the highest rate of exposure that has a small probability five percent (5%) of being exceeded.

"Reference Dose" or **"RfD"** means the estimate of the daily intake of a chemical over a lifetime that is not likely to result in any significant adverse health effects (including in sensitive subpopulations).

"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"** means any spilling, overfilling, leaking, discharging, emitting, or escaping of a regulated substance from a regulated storage tank system onto the ground surface or into the groundwater, surface water or subsurface soils.~~

"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 petroleum storage tank system and its secondary barrier.

"Remediation" means a process or technique used to reduce concentration levels of ~~regulated substances~~ chemicals of concern in the soil and groundwater, and, or to reduce the presence of free product in the environment to levels that are protective of human health, safety and the environment. Generally remediation activities are scheduled after the site assessment is complete and the Remedial Action Plan (RAP) has been approved.

"Repair" means to restore a tank or petroleum storage tank system component to PSTD standards that has caused a release of regulated substances from the petroleum storage tank system.

"Reportable Quantity" or **"RQ"** means the amount of a PSTD regulated substance release required to be reported to appropriate federal, state, and/or local officials.

"Residual Product" Petroleum hydrocarbons (product) that are absorbed or otherwise bound to geological materials (sand, silt, or clay) in any soil zone (vadose, capillary, or saturated zone), in such a manner that ground water in contact with the residual product or beneath the residual product is not contaminated with any petroleum constituent regulated by the OCC.

"Risk-Based Corrective Action" means all of the activities necessary to manage a site such that concentrations of chemicals from a release are at levels that are not detrimental to public health and the environment. It includes, but is not limited to, collection of site-specific data, analysis of the data to quantify the risk, comparison of the risk with acceptable levels, and implementation of engineering and non-engineering measures to ensure that concentrations of remaining Chemicals of Concern are not detrimental to human health.

~~**"SCL"** means Soil Cleanup Level.~~

"STI" means the Steel Tank Institute.

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

"Saturated zone" means a subsurface zone below which all pore space is filled with water.

"Site assessment" means a multi-step process designed to determine if a site has possibly been impacted by regulated substance(s) above OCC action levels.

"Slope Factor" means the plausible upper-bound estimate of the probability of a response (cancer) per unit intake of chemical over a lifetime. Also referred to as Potency Factor.

~~**"Smear Zone"** Any soil zone containing petroleum hydrocarbons that can contaminate ground water in contact with the petroleum hydrocarbons or ground water beneath the petroleum hydrocarbons with petroleum constituents regulated by the PSTD.~~

"Soil zone" means and includes, but is not limited to, vadose zone, capillary fringe, or saturated soil zone.

"Source of contamination" means the location of the highest concentration of chemical contaminants in soil and groundwater.

"Source of release" means the location where regulated substances from a regulated tank system entered the environment.

"Spill" means a release that occurs during transfer operations of PSTD regulated substances to or from a petroleum storage tank system, resulting in a discharge of such substances into the environment.

~~**"Storage Tank System"** means one or a combination of tanks, including the individual compartments, and any connected aboveground or underground piping, hoses, dispensers, containment sump, if any, and ancillary equipment used to contain regulated substances, or the transport truck connected to the storage tank system.~~

~~**"Stormwater collection system"** or **"wastewater collection system"** means piping, pumps, conduits, and any other equipment necessary to collect and transport surface water runoff resulting from precipitation or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.~~

~~**"Surface impoundment"** means a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.~~

"Suspicion of Release" or **"SOR"** means preliminary investigative work to determine if a release of a regulated substance has occurred.

"TCLP" means toxicity characteristic leaching procedure, a test procedure for determining if a solid waste is hazardous because it exhibits toxicity characteristics as enforced under Resource Conservation and Recovery Act.

"TDS" means Total Dissolved Solids.

"TPH" means Total Petroleum Hydrocarbon(s).

"Target Risk Level" means the level set by the Oklahoma Corporation Commission that must be achieved at each site prior to a risk-based closure of the site. For example, for current receptors this level has been set at one in a million (1E-06) and a Hazard Quotient of less than one (1.0).

"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.

~~**"Transporter"** means any person who transports, delivers, or distributes any quantity of regulated substance from one (1) point to another.~~

"UL" means Underwriter's Laboratory.

~~**"USGS"** means the United States Geological Survey.~~

~~**"Usable groundwater"** means fresh groundwater that may be produced from an aquifer for beneficial uses.~~

"Unsaturated zone" or **"vadose zone"** means the subsurface zone containing water under pressure less than that of the atmosphere, including water held by capillary forces within the soil, and containing air or gases generally under atmospheric pressure. This zone is limited by the ground surface and the upper surfaces of the water table.

~~**"Waters of the State"** means all bodies or accumulations of water, surface and/or underground, natural or artificial, and public or private, which are contained within, flow through, or border upon any part of the State of Oklahoma or any portion thereof.~~

PART 7. NATIONAL INDUSTRY CODES

165:29-1-32. Incorporated codes and standards

Specific references to documents listed in (1) through (13) below are made throughout this Chapter. Each of these documents or parts thereof are adopted and incorporated by reference as standards, but only to the extent that they are specifically referenced in this Chapter. These rules will supercede in any conflict between these rules and any 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, 2018, "Handling Releases of Flammable and Combustible Liquids and Gases."
(C) Standard Number 385, 2012, "Tank Vehicles for Flammable and Combustible Liquids."
(D) Standard Number 326, 2015, "Safeguarding of Tanks and Containers for Entry, Cleaning or Repair."
(E) Standard Number 30A, 2015, "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."
(B) Recommended Practice 1632, 2002, "Cathodic Protection of Underground Storage Tank and Piping Systems."
(C) Recommended Practice 1604, R2010, "Closure of Underground Petroleum Storage Tanks, 3rd Edition."
(D) Recommended Practice 1631, 2001, "Interior Lining and Periodic Inspection of Underground Storage Tanks."
(E) Recommended Practice 1621, 2012, "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, 1993, "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, 4th Edition."
(J) Publication 2015, 2018, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."

(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 SP-0286-2007, "Electrical Isolation of Cathodically Protected Pipelines."

(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, 2014, "Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas."

(5) Petroleum Equipment Institute PEI/RP 100 (2011 Edition), "Recommended Practices for Installation of Underground Liquid Storage Systems."

(6) PEI 1700 (2018 Edition), "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems."

~~(6)~~(7) Steel Tank Institute F894, ACT-100, "Specification for External Corrosion Protection of FRP Composite Underground Steel Storage Tanks 2006."

~~(7)~~(8) Factory Mutual 1920 (2007), "Pipe Coupling and Fitting for Aboveground Fire Protection Systems."

~~(8)~~(9) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension, Existing Steel UST by Lining Without Additional Cathodic Protection."

~~(9)~~(10) National Groundwater Association, 1986, "RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD)."

~~(10)~~(11) American Society for Testing and Materials, ASTM Designation: E 1739-95 2015, Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."

~~(11)~~(12) 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).

SUBCHAPTER 3. RELEASE PREVENTION, DETECTION AND CORRECTION

PART 1. RELEASE PROHIBITION, REPORTING, AND INVESTIGATION

165:29-3-2. Release reporting

(a) These reporting requirements do not relieve the owner or operator of the responsibility to take corrective action as required by this Subchapter to protect human health and the environment, including the containment and cleanup of spills and overfills that are not required to be reported.

(b) All petroleum storage tank system owners, operators, their agents and employees, 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 located on PSTD's webpage ~~at the OCC~~ on the Commission website, ~~www.occeweb.com~~; 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 send written confirmation within twenty (20) days in accordance with the release investigation and confirmation requirements of this Subchapter. Events indicating a release include, but are not limited to, the following:

(1) The discovery of released regulated substances at the petroleum storage tank system facility or in the surrounding area including, but not limited to, 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 the owner or operator, like the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the petroleum 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 (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 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 SIR provider 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 SIR provider, owner or operator within twenty-four (24) hours of report generation. An Inconclusive means that the UST system has failed to meet leak detection requirements for that thirty (30) day period.

(3) An unusual level of vapor on the site that is of unknown origin. A vapor monitor well reading in excess of 4,000 units/ppm, or 1,500 units/ppm for diesel storage tanks, must be reported to PSTD within twenty-four (24) hours by the owner, operator, their agents, or employees discovering the monitoring results. If diesel and gasoline tanks share the same tankpit, the reporting level is 1,500 units/ppm. Within ten (10) days, the owner or operator must submit to PSTD all vapor monitoring well data, including background data, for the last twelve (12) thirty (30) day periods. Upon examination of the submitted data, PSTD will advise the owner or operator what action, if any, he or she needs to take. Whenever these vapor thresholds are exceeded the tank owner must provide alternative test results that confirm the petroleum storage tank system is currently not leaking.

(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.

(c) Monitoring results, including investigation of an alarm from a release detection method required by OAC 165:25 that indicate a release may have occurred, must be reported within twenty-four (24) hours of the owner or operator's receipt of them; and PSTD will advise what action should be taken to determine whether or not a release has occurred, unless:

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

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

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

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

(3) 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.

(d) All owners and/or operators of petroleum storage tank systems shall maintain records of all reportable and nonreportable events listed in 165:29-3-2 of Commission rules sufficient to permit

adequate inspection and review by PSTD. These records shall be kept in permanent form for three (3) years following the date of the event. If any of the possible, probable, or definite release conditions in this Section are not reported within twenty-four (24) hours, the owner or operator must be prepared to provide documentation or evidence that would reasonably indicate an owner or operator's knowledge of release conditions or monitoring results was delayed.

(e) The owner or operator of a petroleum storage tank system must maintain records of all reportable and nonreportable events so that adequate inspection and review can be made by PSTD. These records must be kept for three (3) years following the date of the event.

(f) While aboveground petroleum releases of less than twenty-five (25) gallons need not be reported, they must be recorded by the owner or operator and cleaned up immediately. All of the following releases must be reported to PSTD by email or telephone within twenty-four (24) hours of discovery, by the owner, operator, employee or agent, 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.

(g) Owners and operators must contain and immediately clean up any spill or overfill of regulated substances less than twenty-five (25) gallons within twenty-four (24) hours of incident occurrence. If the spill or overfill cannot be cleaned up within twenty-four (24) hours, is more than twenty-five (25) gallons, or it causes a sheen on nearby surface water, then owners and operators must report to the PSTD within twenty-four (24) hours and begin corrective action in accordance with Part 5 (Corrective Action Requirements) of this Chapter.

(h) 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.

(i) If any of the possible, probable or definite release conditions above are not reported within twenty-four (24) hours, the owner/operator may be subject to enforcement action.

PART 5. CORRECTIVE ACTION REQUIREMENTS

165:29-3-71. General applicability; exception

(a) Every owner or operator of a petroleum storage tank system must, in response to a confirmed release from a petroleum storage tank system, comply with the requirements of this Part, with the exception of those systems excluded from regulation in OAC 165:25 and 165:26.

(b) All work associated with the assessment, characterization, investigation, remedial action, and closure from a release or suspected release of a regulated substance should be pre-approved by PSTD.

(c) Upon confirmation of a release, or after a release from the petroleum storage tank system is identified, the owner or operator must perform the following initial response actions:

(1) Report the release to PSTD using the link provided on the release reporting tab located on PSTD's webpage ~~at the OCC website (PSTReleaseReporting@occemail.com);~~ on the Commission website; by email at PSTReleaseReporting@occ.ok.gov; by telephone at 405-521-4683 or 1-888-621-5878~~;~~; or fax to 405-521-4945. If after hours, or on weekends or holidays call the PSTD emergency number at 405-823-0994.

(2) Take immediate action to prevent any further release of the regulated substance into the environment, and prove that any system still containing fuel is tight by having a system tightness test performed.
(3) Identify and mitigate any fire, explosion, and vapor hazards.
(4) Remove free product to the extent practicable as determined by PSTD while continuing, as necessary, any actions required by this Subchapter.

(d) Any corrective action work performed at a release site must have prior documented verbal or written approval by a member of PSTD staff to be considered reimbursable by the Indemnity Fund. This requirement for pre-approval excludes required emergency spill mitigation measures. Additionally, field work associated with all corrective actions requires 48-hour (two working days excluding holidays and weekends) written notice to PSTD of scheduled field activities. Notice must be made to the PSTD staff member assigned to the case, his/her Supervisor and the PSTD Technical Manager.

165:29-3-76. Tier 1A ORBCA

(a) Unless otherwise directed by the PSTD, the owner or operator must compile information in order to assess the site using the Risk-Based Corrective Action (RBCA) process described in the ORBCA Guidance Document. (The ORBCA Guidance Document is available~~—at www.occeweb.com or~~ on the Commission website and at the offices of the Petroleum Storage Tank Division of the Oklahoma Corporation Commission.) The RBCA process must be implemented with a three (3) tiered approach that must involve an increase in the level of data collection and analysis from one tier to the next. Some conservative default parameters under the Initial Site Characterization Tier 1A process must be replaced with more site-specific parameters under the Tier 2 and Tier 3 process. PSTD will review the results and recommendations at the completion of the Tier 1A analysis and decide if a more site-specific tiered analysis is required by initiating a Tier 2 or Tier 3 process, or whether remedial action should be performed as provided for in this Subchapter.

(b) PSTD will only accept and review reports, worksheets, checklists, closure reports or other relevant documents which incorporate the RBCA process, or any other acceptable risk analysis, from a Commission Licensed Environmental Consultant.

(c) The RBCA Tier 1A process is as follows:

(1) Tier 1A: Non-site-specific risk-based screening method used to determine corrective action goals using limited site-specific data.

(A) Tier 1A establishes conservative cleanup goals called modified Risk-Based Screening Levels (RBSLs). Only the Fate and Transport Parameters cited in the ORBCA Guidance Document may be replaced by site-specific information obtained through site investigation and assessment. Justification must be provided when changes in any of the default Fate and Transport Parameters are indicated. The default Exposure Factors cannot be modified, nor can degradation rates be used under a Tier 1A evaluation. This evaluation must be performed using the models cited in Appendix C of the ORBCA Guidance Document. The modified RBSLs take into consideration regional characteristics, aesthetic criteria, and other appropriate standards such as Maximum Contaminant Levels (MCLs) for water. Tier 1A modified RBSLs are derived from standard exposure scenarios using current Reasonable Maximum Exposure (RME) toxicological parameters and conservative contaminant migration models. RBSL values are determined by the PSTD using one (1) in one million (1,000,000) as a Target Risk Limit for carcinogens and a Hazard Quotient (HQ)

not greater than one (1.0) as a Target Risk Limit for non-carcinogens. One (1) in ten thousand (10,000) is the acceptable Target Risk Limit for carcinogens for future potential receptors.

(B) The most likely Point of Exposure (POE) for current and potential future beneficial use of fresh groundwater should be determined. The concentration at this Point of Exposure for each Chemical of Concern (COC) must not exceed the Target Risk Limits cited in this Section.

(C) Unless otherwise directed by PSTD under Tier 1A the owner or operator must drill and install a minimum of four (4) two-inch (2") diameter monitoring wells outside of the UST pit or AST containment or product piping trench excavation zones. These wells must be located as follows:

(i) One (1) well must be installed in an apparent upgradient location to any known potential source at the site on or as close to the release as possible.

(ii) One (1) well must be installed in a location most likely to be contaminated.

(iii)One (1) well must be installed in a location that will allow the determination of an accurate groundwater gradient.

(iv)One (1) well must be installed in the direction of the nearest probable Point of Exposure either at the nearest property line or fifty feet (50') from the source of contamination, whichever is closer, or at another location as determined by PSTD. This well will be the Point of Compliance (POC) well for the Tier 1A evaluation unless there is a Point of Exposure nearer to the source of contamination, in which case the Point of Exposure will also become the Point of Compliance. The concentration for each Chemical of Concern in the Point of Compliance well should not exceed the Tier 1A standards as calculated using the ORBCA Guidance Document. If a drinking water supply well has been identified within 330 feet of the site, groundwater MtBE must be tested at the Point of Compliance. 0.020 mg/L will be considered the level of concern for MtBE and may require further assessment and corrective action.

(2) Tier 1A: Risk-Based Screening Level corrective action goals developed using limited site-specific data.

(A) This evaluation must be performed using the same models as those which are cited in Appendix C of the Guidance Document.

(B) Only the Fate and Transport Parameters cited in the ORBCA Guidance Document may be replaced by site-specific information obtained through site investigation and assessment. Justification must be provided when changes in any of the Tier 1A default Fate and Transport Parameters are indicated. The Tier 1A default Exposure Factors cannot be modified, nor can degradation rates be used under a Tier 1A evaluation.

(3) Within forty-five (45) days of release confirmation, or according to a schedule established by PSTD, the owner or operator must submit the information required in the Tier 1A evaluation as a report. This report must be submitted in ~~a~~ the online format established by PSTD.

(d) PSTD may re-evaluate a Tier 1A analysis of a site, for the purpose of closure, on a case-by-case basis.

165:29-3-80. Remedial Action Plan

(a) At any point after reviewing the information submitted, PSTD may require additional information or a Remedial Action Plan for contaminated soils and groundwater. If a plan is required, it must be submitted ~~on forms or~~ in the online format specified by PSTD.

(b) PSTD will approve a Remedial Action Plan only after the Licensed Environmental Consultant ensures that implementation of the plan will adequately protect human health, safety, and the environment as determined by using the process outlined in the ORBCA Guidance Document.

(c) As directed by PSTD, the owner or operator must implement the Remedial Action Plan, including any modifications to the plan made by PSTD. Implementation for the purposes of this Chapter means that the Remedial Action Plan approved by PSTD is fully operational and is performing the task for which it was designed.

(d) The owner or operator will be required to perform remediation and compliance monitoring as directed by PSTD.

(e) The owner or operator may, with verbal pre-approval documented by fax or email of PSTD staff, begin cleanup of soil and groundwater before the Remedial Action Plan is approved, provided that the owner or operator:

(1) Notify PSTD of the intention to begin cleanup at least seven days prior to initiating any cleanup action, unless it is an emergency.

(2) Comply with any conditions imposed by PSTD, including halting cleanup or mitigating adverse consequences from cleanup activities.

(3) Incorporate these self-initiated cleanup measures in the Remedial Action Plan or closure by risk assessment that is submitted to PSTD for approval.

165:29-3-81. Property owners affected by releases; notice

(a) Upon confirmation that soil and/or groundwater contamination is above action levels, owners or operators must, at a minimum, notify adjacent or abutting property owners that have been, or may be impacted by the release. This notice should be made just after delineation of the release to Tier 2 clean-up levels or prior to a case closure based on Tier 1A modified RBSL's. The notice, unless otherwise directed by the PSTD, must include at a minimum:

(1) The origin and extent of the release; impacted party, upon written request to owner/operator may receive reports;

(2) The nature of the substance(s) released;

(3) The name, address and telephone number of the owner or operator or his or her designee who may be contacted for more information about the release;

(4) The phone number and name of the Project Environmental Analyst at the PSTD whom the property owner can contact for additional information.

(5) If an adjacent or abutting property owner that has been or may be impacted by a release requests, in writing, copies of all reports, it is the responsibility of the owner/operator to assure past and future reports are delivered to the requesting property owner.

(b) For each confirmed release that requires remediation or closure by a risk assessment or Risk-Based Corrective Action, the owner or operator must notify property owners that have been or may be impacted by the release and provide:

(1) The origin and extent of the release;

(2) The nature of the substance(s) released;

(3) A description of any planned remedial action or closure based upon a risk assessment of the release;

(4) The name, address and telephone number of the owner or operator or his or her designee and of the PSTD Project Environmental Analyst working on the case who may be contacted for more information about the release, including any planned response action; and

(5) A statement that additional information about the release, including any planned response action, is on file with the PSTD and available for public review.

(c) The notices required by this Section must be given by certified mail/return receipt requested. Copies of the return receipts must be included in the Public Participation Report submitted to the PSTD.

(d) The PSTD must ensure that any and all information concerning the release is made available to the public for review upon request.

(e) Before approving a remediation plan or closure based upon risk assessment, the PSTD may hold a public meeting to consider comments on the proposed remediation plan or closure if there is sufficient public interest, or for any other reasons. If no comments have been received within thirty (30) days of the receipt date of the certified mail notice letters required by paragraph (c) of this Section, then remediation or closure activities may commence. Any public comments related to the proposed remediation or case closure must be submitted in writing to the OCC to the attention of the PSTD Project Environmental Analyst working on this case, whose name and address will be on the notice letter.

(f) The notice required by this Section must also be given;

(1) after implementation~~, see OAC 165:29-3-80(c),~~ of an approved Remedial Action Plan that does not achieve the cleanup levels established in the plan, and

(2) ~~and,~~ when termination of the plan is subsequently approved by the PSTD.

PART 7. LICENSING PROCEDURES FOR ENVIRONMENTAL CONSULTANTS

165:29-3-92. License penalties

(a) PSTD has the responsibility to deny, suspend, refuse to renew or revoke the license of, or reprimand, any Licensed Environmental Consultant 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) Reckless or willful disregard, 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.

(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 165:25, 165:26, 165:27, and/or the Oklahoma Petroleum Storage Tank Consolidation Act (17 O.S. §§ 301 et seq.).

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

~~(9) Failure to submit PSTD required paperwork, test results, and/or reports in the format established by PSTD within the time allowed 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.
~~(c)~~(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 5. ADMINISTRATIVE PROVISIONS

165:29-5-1. Hearings, orders and ~~appeals~~ exceptions

(a) Hearings ~~and appeals~~ to enforce or exceptions to the provisions of this Chapter will be conducted in accordance with ~~Chapter 5 of Commission rules~~ OAC 165:5.
(b) The Commission will issue orders ~~it deems~~ 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, ~~or welfare or~~ and the environment ~~within the State of Oklahoma~~.