

RULE IMPACT STATEMENT

Pursuant to the Administrative Procedures Act, Section 303(D) of Title 75 of the Oklahoma Statutes, the Oklahoma Department of Labor (“ODOL”) hereby submits the following Rule Impact Statement for **PERMANENT** rule proposals for OAC Title 380, Department of Labor, Chapter 80, Alternative Fuels Program.

Brief Description of the Purpose of the Proposed Rules:

The proposed rule amendments update the Alternative Fuels Program to include provisions for the inspection of hydrogen fill stations. The circumstances which created the need for the rule amendments are that SB1855 went into effect on November 1, 2022 giving the Oklahoma Department of Labor (“ODOL”) the authority to inspect any hydrogen fueling station or pump. The intended effect of the proposed rule amendments is to provide guidance to industry regarding the standards for construction and operation of hydrogen fill stations in Oklahoma.

Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

Individuals and business entities engaging in the design, manufacture, construction, and maintenance of hydrogen fill stations in Oklahoma are the persons most likely to be affected by the proposed rule amendments. ODOL has not received any information on cost impacts from any private or public entities but companies installing and operating hydrogen fill stations will be subject to the same license and inspection fees as those who have been installing and operating compressed natural gas (“CNG”) fill stations.

Description of the classes of persons who will benefit from the proposed rule:

Persons and business entities seeking to engage in the design, manufacture, construction, and maintenance of hydrogen fill stations in Oklahoma will benefit from the proposed rule amendments as they will have guidance regarding the code standards they must meet. The general public will benefit from the proposed rule amendments as the code standards for the construction and operation of hydrogen fill stations will help ensure public safety through the safe handling of hydrogen fuels.

Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing for all fee changes and, whenever possible, separate justification for each fee change:

No fee changes are being proposed. Private or public entities installing and operating hydrogen fill stations will be subject to the same license and inspection fees as those who have been installing and operating CNG fill stations. Economic impact will be minimal. ODOL has received no criticism of the existing fee schedule from industry participants.

The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

ODOL does not anticipate any financial costs or benefits as a result of the proposed rule amendments in the immediate future. The source of revenue to be used for implementation and enforcement of the proposed rule amendments will be revenue from the existing fee schedule for the licensing and inspection of fill stations. No new revenue sources will be needed to implement or enforce the proposed rule amendments. ODOL's current Alternative Fuels inspectors will be able to inspect any hydrogen fill stations for the foreseeable future until or unless the industry grows sufficiently to necessitate additional staffing.

A determination of whether implementation of the proposed rule will have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule:

ODOL worked closely with Oklahoma's Hydrogen Permitting Workgroup to assess jurisdictional overlap and to provide guidance to industry participants. The Workgroup involved representatives from ODOL, the Oklahoma Corporation Commission, Department of Environmental Quality, Department of Transportation, and the Water Resources Board. ODOL does not anticipate that implementation of the proposed rule amendments would have an economic impact on any political subdivision beyond the minimal licensing and inspection fees that would be charged to a political subdivision that chose to operate a hydrogen fill station. Nor would implementation of the proposed rule amendments require the cooperation of any political subdivisions aside from those choosing to operate a hydrogen fill station.

A determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

Implementation of the proposed rule amendments will not have an adverse economic effect on small business.

An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The proposed rule amendments are designed to minimize compliance costs by giving industry participants a level playing field in which to operate through adoption of uniform national standards for the design, manufacture, construction, and maintenance of hydrogen fill stations in Oklahoma. Given the nature of hydrogen fuel, nonregulatory methods would not provide the same level of public safety as the proposed rule amendments. As mentioned above, no fee changes are being proposed and ODOL's existing fee schedule has proven reasonable in the CNG industry.

A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule amendments will have a significant positive effect on the public health, safety, and environment. The proposed rule amendments are specifically designed to reduce significant risks to the public health, safety, and environment. Hydrogen is a colorless, odorless, tasteless and highly flammable gas that can cause fires and explosions if it is not handled properly. Proper handling depends upon proper storage. When used as a gaseous fuel hydrogen may be stored at pressures exceeding 5,000 p.s.i. In its liquid form it must be cryogenically stored at temperatures below -253°C. The proposed rule amendments provide industry participants with guidance regarding the national safety standards applicable to the safe storage and dispensing of hydrogen fuel so that the public will be better protected from hydrogen fire incidents.

A determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:

Public safety could be jeopardized if the proposed rules are not implemented and hydrogen fill stations were to be operated without regard for established national safety standards respecting the safe storage and handling of hydrogen.

Date the rule impact statement was prepared and the date modified:

Prepared: February 24, 2023

Modified: N/A

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