

**October 23, 2023**  
**2:00 p.m.**  
**Oklahoma Corporation Commission**  
**Will Rogers Memorial Office Building**  
**2401 N. Lincoln Blvd., (Kiser Conference Room #414-6)**  
**Oklahoma City, OK 73105**

These minutes are unofficial until they are voted on for approval  
at the next meeting, which has not been scheduled.

The notice for the Storage Tank Advisory Council (STAC) meeting was publicly posted at the Oklahoma City offices of the Oklahoma Corporation Commission at approximately 3:05 p.m. on October 16, 2023, by Commission employees acting under the direction of Ms. Robyn Strickland, Director of the Petroleum Storage Tank Division. The notice was also provided to the Oklahoma Secretary of State. Copies of the notice and the agenda for the meeting are attached to these minutes.

No **Commissioners** were present for the meeting.

Council members present were **Kenneth Beaty, Derek Blackshare, Todd Darrough, Jeff Johndrow, Robert Keyes, Kathy Lippert, and Joe Stephenson**. A quorum was maintained for the entire duration of the meeting.

**Joe Stephenson**, Chair of the Storage Tank Advisory Council (STAC), called the meeting to order at 2:01 p.m. and said the meeting had proper notice, and a quorum was present.

The **second order of business** was the minutes of the last meeting. **Derek Blackshare** made a motion to approve the minutes and **Todd Darrough** seconded it. All members present approved the motion.

The **third order of business** was the Financial Report by Denetta Brannon, PSTD Comptroller. Ms. Brannon reported the September 2023 assessment was \$2,470,234.51; total revenue was \$2,532,549.18; there were 106 claims totaling \$1,714,858.02; and total expenses were \$2,091,925.50. As of September 30, 2023, the Indemnity Fund balance was \$25,229,304.38, less encumbered funds in the amount of \$25,104,090.08, leaving an available balance of \$125,214.30.

The **fourth order of business** was draft proposed rules by Jamie Andrews. Ms. Andrews said draft proposed rules were being presented to council member to consider, discuss, and recommend whether PSTD should proceed with a formal rulemaking. Two technical conferences and a public hearing will be held where the public can attend and publicly comment on the proposed rules and public comments can also be submitted, dates to be announced. Senate Bill 515 was signed into law and staff now has a shorter timeframe for rulemakings. The law moved the date for agencies to submit adopted rules to March 1 this year, and February 1 thereafter, and staff hoped council members could make a recommendation to proceed with a rulemaking today so a second meeting would not be necessary.

Ms. Andrews opened the floor for discussion on Chapter 15 Fuel Inspection. No discussion was held on this Chapter.

Ms. Andrews opened the floor for discussion on Chapter 25 Underground Storage Tanks.

165:25-1-100(a)(1) will be amended to add "licensed tester" to the OCC application form.

165:25-2-2(1) will be amended to 2024 to reflect the current edition of NFPA Standard 30.

165:25-2-2(3) will be amended to change NACE to AMPP since they merged with SSPC after comment from Candace McGinnis, Oklahoma Petroleum Marketers and Convenience Store Association and discussion with staff. Any recommended practice (RP) updates will also be made.

165:25-2-40 will be amended to allow UST Installers to test spill and overfill equipment at installation after comment and discussion from Scott Cole, Seneca, and discussion with staff.

Mr. Darrough asked for clarification on the need for service technicians who conduct functionality tests to be licensed. Staff felt they should be licensed.

No other discussion was held on this Chapter.

Mr. Aaron Johnson discussed adding the fees for licensing testers in accordance with Chapter 5 rules that was inadvertently left off the proposed rule and then opened the floor for discussion on Chapter 26 Aboveground Storage Tanks.

165:26-1-100.2 will be amended to add licensing fees for compliance testers.

165:26-2-39 will be amended to allow AST Installers to test spill and overfill equipment at installation after comment and discussion from Scott Cole, Seneca, and discussion with staff.

Mr. Cole asked if staff would consider a grace period on current certificates similar to what was done when the AST license was split into separate licenses to install and remove. Staff responded that this may need to be considered depending on the effective date of the rules next year.

No other discussion was held on this Chapter.

Mr. Johnson opened the floor for discussion on Chapter 27 Indemnity Fund. No discussion was held on this Chapter.

Mr. Johnson opened the floor for discussion on Chapter 29 Corrective Action of Petroleum Storage Tank Releases. There was a short discussion on whether to add a definition for corrective action work, however, since the term is defined in statute, a definition is not needed in Chapter 29.

**Mr. Stephenson** asked if the council was ready to recommend that staff proceed with a rulemaking, they could vote today and avoid having to come back for another meeting. All members agreed.

**Mr. Stephenson** asked for motions individually by Chapter to recommend accepting the draft proposed rules presented to the council with the amendments discussed in the meeting. **Mr. Stephenson** called for a roll call vote for each Chapter (motions, seconds, and roll call votes attached).

**Robert Keyes** made a motion to adjourn, and **Todd Darrough** seconded it. All members present approved the motion and the meeting adjourned at 3:02 p.m.

ATTESTED:

A handwritten signature in black ink that reads "Susan Adlamini". The signature is written in a cursive style and is positioned above a horizontal line.

Susan Adlamini

Acting Minutes Clerk for the Commission

**STAC MEETING  
OCTOBER 23, 2023 (2:00 PM)**

**AGENDA, TIMES, MOTIONS, VOTES**

Item	Topic
I	A. Call to order [2:01 pm] B. Announcement concerning public notice [Notice was properly posted] C. Determination of a quorum [All members present-quorum]
II	Approval of the minutes from the last meeting held on November 7, 2022 Motion: Blackshare / Second: Darrough
II	Financial Report for the Petroleum Storage Tank Indemnity Fund [Denetta Brannon]
III	A. Discussion on the proposed rules [Jamie Andrews and Aaron Johnson] <ul style="list-style-type: none"> <li>• OAC Title 165, Chapter 15 Fuel Inspection draft proposed rules</li> <li>• OAC Title 165, Chapter 25 Underground Storage Tanks draft proposed rules</li> <li>• OAC Title 165, Chapter 26 Aboveground Storage Tanks draft proposed rules</li> <li>• OAC Title 165, Chapter 27 Indemnity Fund draft proposed rules</li> <li>• OAC Title 165, Chapter 29 Corrective Action of Petroleum Storage Tank Releases draft proposed rules</li> </ul> <p>B. Is there a motion to accept changes discussed and recommend staff proceed with a rulemaking?</p> <ul style="list-style-type: none"> <li>• Chapter 15 Motion: Keyes / Second: Lippert</li> <li>• Chapter 25 Motion: Lippert / Second: Keyes</li> <li>• Chapter 26 Motion: Lippert / Second: Keyes</li> <li>• Chapter 27 Motion: Lippert / Second: Keyes</li> <li>• Chapter 29 Motion: Lippert / Second: Keyes</li> </ul> <p>C. Roll call vote for each Chapter (see below)</p>
IV	Adjourn - Motion: Keyes / Second: Darrough [Time: 3:02 pm]

		<u>CH15</u>	<u>CH25</u>	<u>CH26</u>	<u>CH27</u>	<u>CH29</u>
ROLL:	J Stephenson	Yes	Yes	Yes	Yes	Yes
	K Lippert	Yes	Yes	Yes	Yes	Yes
	K Beaty	Yes	Yes	Yes	Yes	Yes
	D Blackshare	Yes	Yes	Yes	Yes	Yes
	T Darrough	Yes	Yes	Yes	Yes	Yes
	J Johndrow	Yes	Yes	Yes	Yes	Yes
	R Keyes	Yes	Yes	Yes	Yes	Yes

STORAGE TANK ADVISORY COUNCIL  
MEETING SIGN-IN SHEET

October 23, 2023

DATE

Joe Stephenson 5  
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Jeff Johnson  
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SIGNATURE

DEREK BLACKSHARE  
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TODD FARRINGTON  
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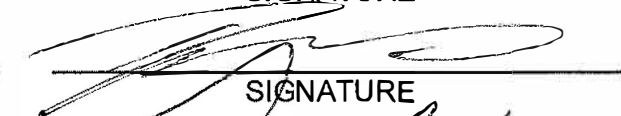
Kenneth Beatty  
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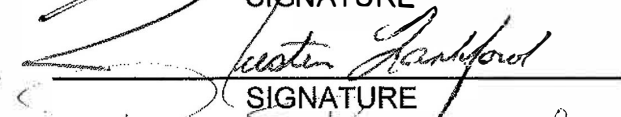
Kathy Lippert  
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Robert Keyes  
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Justin Lankford  
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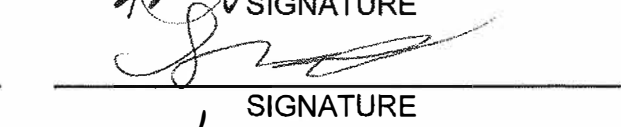
Rayn Steward  
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Russell Britter  
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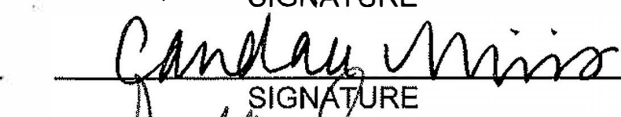
Scott Cole  
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Terri Roberts  
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Candace McGinnis  
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GROFFNEY THOMAS  
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Mark Willingham

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Eric Hutton

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Brock Stuber

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Brian McDonald

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Shane Clark

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Terin Morris

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**STORAGE TANK ADVISORY COUNCIL**  
**Notice of Public Meeting**  
**Special Meeting**

Notice is hereby given to all persons that the Storage Tank Advisory Council shall meet at the offices of the Oklahoma Corporation Commission (OCC) and conduct business as follows:

**Time, Day and Date:** 2 p.m. Monday, October 23, 2023

**Place:** Kiser Conference Room, Suite 414-6, Will Rogers Memorial Office Building, 2401 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105

**Purpose:** Discussion, input, and possible recommendation(s) regarding possible proposed administrative rules as listed below

**Posting Division:** Office of General Counsel

**AGENDA**

Item	Topic
I	A. Call to order B. Announcement concerning public notice C. Determination of a quorum
II	Approval of prior meeting minutes
III	Financial Report for the Petroleum Storage Tank Indemnity Fund
IV	A. Discussion, public comment, and input from the Petroleum Storage Tank Division staff on: <ul style="list-style-type: none"> <li>• OAC Title 165, Chapter 15 Fuel Inspection draft proposed rules</li> <li>• OAC Title 165, Chapter 25 Underground Storage Tanks draft proposed rules</li> <li>• OAC Title 165, Chapter 26 Aboveground Storage Tanks draft proposed rules</li> <li>• OAC Title 165, Chapter 27 Indemnity Fund draft proposed rules</li> <li>• OAC Title 165, Chapter 29 Corrective Action of Petroleum Storage Releases draft proposed rules</li> </ul> B. Possible vote(s) on recommendations to the Commission to initiate and conduct rulemakings for IV(A) and/or any alterations, revisions, or amendments thereto considered at the meeting C. Future meeting date
V	Adjournment

This meeting is open to the public.

Notice was provided in writing to the Oklahoma Secretary of State at least 48 hours in advance of the scheduled meeting and was also posted prominently and publicly at the principal offices of the Oklahoma Corporation Commission at the Will Rogers Memorial Office Building, 2401 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105 at 3:05 p.m. on October 16, 2023.

**MINUTES OF THE  
STORAGE TANK ADVISORY COUNCIL MEETING**

**November 7, 2022**

**2:00 p.m.**

**Oklahoma Corporation Commission  
Jim Thorpe Office Building  
2101 N. Lincoln Blvd., (O&G Conference Room #224)  
Oklahoma City, OK 73105**

These minutes are unofficial until they are voted on for approval  
at the next meeting, which has not been scheduled.

The notice for the Storage Tank Advisory Council (STAC) meeting was publicly posted at the Oklahoma City offices of the Oklahoma Corporation Commission at approximately (3:45pm) on (September 12, 2022) by Commission employees acting under the direction of Ms. Robyn Strickland, Director of the Petroleum Storage Tank Division. The notice was also provided to the Oklahoma Secretary of State. Copies of the notice and the agenda for the meeting are attached to these minutes.

No **Commissioners** were present for the meeting.

Council members present were **Ken Beaty, Derek Blackshare, Todd Darrough, Jeff Johndrow, Robert Keyes, and Kathy Lippert. Joe Stephenson** was absent. A quorum was maintained for the entire duration of the meeting.

**Kathy Lippert**, Vice Chair of the Storage Tank Advisory Council (STAC), called the meeting to order at 2:05pm and said the meeting had proper notice and a quorum was present.

The **second order of business** was the minutes for the last meeting and the Financial Report. **Robert Keyes** made a motion to approve the minutes and **Todd Darrough** seconded it. All members present approved the motion.

Denetta Brannon, PSTD Comptroller, reported the August assessment was \$2,580,864.54; total revenue was \$2,619,514.97; there were 86 claims totaling \$1,448,509.27; and total expenses were \$1,764,100.77. As of October 31, 2022, the Indemnity Fund balance was \$24,228,411.77 less encumbered funds in the amount of \$24,089,692.96 leaving an available balance \$138,718.81.

The **third order of business** was a discussion on proposed rules for Chapter 25 Underground Storage Tanks and Chapter 26 Aboveground Storage Tanks by Travis Weedn. Mr. Weedn said after the first technical conference staff considered the oral comments made at the meeting and presented Council members three paths (options) to consider and discuss.



Path 1 is to make no changes, leave the proposed rules as they are filed and proceed with the rulemaking. The proposed revision is in Chapter 25 and would allow UST Removers to remove ASTs. Staff is opposed to this option as they feel licensing for ASTs should not be in the UST rules. It also allows current UST Removers to remove ASTs without having to submit an application, provide proof of experience, or take the exam that is required for all license applicants. Staff would also have to replace the new licensing database recently deployed.

Path 2 splits the current AST Licensing rule into separate licenses for installations and removals. Current AST Licensees would be grandfathered in and automatically have both licenses. Staff is not opposed to this change, and it will require a lot of effort by staff to get everything in place by the effective date of the rules, but it would be done in this rulemaking. An amended NOPR would have to be filed to include three rules not currently open that reference AST Licensees instead of AST Installer. Mr. Weedn said splitting the license in Chapter 26 will make it more like it is in Chapter 25. It will also be easier for contractors to change the new licensing database.

Path 3 is to withdraw the proposed rules for licensing in both chapters and create a work group with industry stakeholders to discuss options including how big the problem is and whether the licensing rule needed to be changed. Staff called current AST Licensees for their opinion, and some said allowing UST Removers to remove ASTs was ok and others felt you needed to know how to install if you want to remove. The licensees staff talked to said they were available and would not turn down a removal if it didn't include a new installation. Staff prefers this option as they have seen no evidence there is a shortage but acknowledges it would delay changing the rules for another year if the work group determined the rule should be changed.

**Mr. Keyes** said personally it was better for his business if we don't change anything, but it would not be better for the industry and felt we should do whatever is the best path for industry. His preference initially was Option 1 because splitting the license still requires people to get training and experience, and there are a limited number of people who can provide training. Current UST Removers already have training and experience so the hole would be filled immediately but he was also ok with splitting the license.

Mr. Weedn detailed the proposed changes splitting the current license into separate licenses to install and remove and noted the change requires applicants for a remover's license would need removal experience rather than installation experience. He clarified that if we split the license, we do not have to do anything in Chapter 25 other than withdraw the proposed rule from the rulemaking.

Terri Roberts asked if staff had surveyed other states on licensing ASTs. Justin Lankford said he did not. Many state tank programs don't include ASTs because they are regulated by the State Fire Marshal and city code inspectors. Brock Stuber said Oklahoma is unique and he did not know of any that have both AST and UST programs. Robyn Strickland said

ours started out with the Fire Marshal in the late 80's and we had an MOU with the Fire Marshal before eventually taking it over.

**Derek Blackshare** made a motion to recommend that staff proceed with path 2 (alternate proposed rules) for Chapters 25 and 26, and **Robert Keyes** seconded it. Susan Adlamini called for a vote by roll call and all members present approved the motion (motions, seconds, roll call vote attached)

**Jeff Johndrow** made a motion to adjourn, and **Robert Keyes** seconded it. All members present approved the motion and the meeting adjourned at 2:11 p.m.

ATTESTED:

A handwritten signature in black ink, reading "Susan Adlamini", written over a horizontal line.

Susan Adlamini  
Acting Minutes Clerk for the Commission

Oklahoma Corporation Commission, Petroleum Storage Tank Division  
**Indemnity Fund Revenue and Expenses-Comparative**  
 Report for September 2023

STAC REPORT	FY 2024		FY 2023	
	CURRENT	YTD	CURRENT	YTD
<b>REVENUE</b>				
* Assessment Collected	\$2,470,234.51	\$6,526,799.09	\$2,421,611.86	\$6,477,871.40
Interest Earned	\$57,517.71	\$164,036.60	\$28,602.44	\$79,155.84
Copy Received	\$3,796.96	\$9,890.33	\$10,761.04	\$29,773.97
Refunds for Insurance Coverage/Other	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL REVENUE:</b>	<b><u>\$2,531,549.18</u></b>	<b><u>\$6,700,726.02</u></b>	<b><u>\$2,460,975.34</u></b>	<b><u>\$6,586,801.21</u></b>
<b>EXPENSES</b>				
Number of Claims Paid	106	301	108	316
Claim Reimbursements	\$1,714,858.02	\$4,452,023.96	\$1,719,067.97	\$5,207,926.35
Operating Expenses	\$377,067.48	\$1,212,370.60	\$417,677.56	\$1,186,841.91
<b>TOTAL EXPENSES:</b>	<b><u>\$2,091,925.50</u></b>	<b><u>\$5,664,394.56</u></b>	<b><u>\$2,136,745.53</u></b>	<b><u>\$6,394,768.26</u></b>
<b>NET INCREASE (DECREASE)</b>	<b><u>\$439,623.68</u></b>	<b><u>\$1,036,331.46</u></b>	<b><u>\$324,229.81</u></b>	<b><u>\$192,032.95</u></b>
<b>ACCOUNT BALANCES</b>				
Maintenance Level		\$16,486,230.00		\$14,247,484.37
Total Cash on Hand & Investments		\$25,229,304.38		\$23,226,403.25
Less: Funds Encumbered (PO's & PFP Contracts)		\$25,104,090.08		\$23,158,296.64
<b>AVAILABLE BALANCE</b>		<b><u>\$125,214.30</u></b>		<b><u>\$68,106.61</u></b>
<b>CLAIM PROCESSING TIME - YTD</b>				
CLAIM TYPE	STATUTORY LIMIT	YTD AVERAGE	YTD AVERAGE	
Initials	90 Days	5.61	4.76	
Supplementals	30 Days	6.45	4.62	
Resubmittals	30 Days	6.45	4.62	
<b>ADD'L OCT INFORMATION</b>				
Maintenance Level		\$16,486,230.00		\$14,247,484.37
Indemnity Fund (Cash 1185F)		\$25,229,304.38		\$23,226,403.25
Indemnity Fund (CD Total)		\$0.00		\$0.00
<b>Total Indemnity Fund</b>		<b><u>\$25,229,304.38</u></b>		<b><u>\$23,226,403.25</u></b>
Less: Encumbered Funds		(\$25,104,090.08)		(\$23,158,296.64)
<b>Available Balance</b>		<b><u>\$125,214.30</u></b>		<b><u>\$68,106.61</u></b>
Difference		<b><u>\$16,361,015.70</u></b>		<b><u>\$14,179,377.76</u></b>
<b>Breakdown-Encumbered Funds:</b>				
Pay for Performance		0.00% \$0.00		0.00% \$0.00
Purchase Orders		23.62% \$5,929,657.01		27.88% \$6,456,504.36
Large Project Encumbrances		76.38% \$19,174,433.07		72.12% \$16,701,792.28
<b>TOTAL</b>		<b><u>100.00% \$25,104,090.08</u></b>		<b><u>100.00% \$23,158,296.64</u></b>
Interest Income				
Interest - Cash 1185F		\$57,517.71		\$28,602.44
CD Interest		\$0.00		\$0.00
<b>Total Interest</b>		<b><u>\$57,517.71</u></b>		<b><u>\$28,602.44</u></b>

**CHAPTER 15**  
**DRAFT PROPOSED RULES**  
**OCTOBER 23, 2023**

## SUBCHAPTER 3. FUEL SPECIALISTS, TESTING, ACCESSIBILITY, AND ASSISTANCE

### PART 7. STORAGE TANKS AND ANCILLARY EQUIPMENT

#### **165:15-3-21. Containment of petroleum products**

Because petroleum product releases can pose a threat to the public health, safety and the environment, Fuel Specialists must ensure that the proper mechanisms are in place and standards, rules, and requirements are met to prevent releases.

(1) **Spill and overflow protection.** Fuel Specialists must ensure that appropriate spill and overflow protection devices are in place and operational.

(2) **Leak detection on tanks.** Fuel ~~specialists~~ Specialists must check the condition of an owner or operator's selected method(s) of leak detection at a location. The requirements of each method listed below are offered as a general outline; a complete list of leak detection requirements is in OAC 165:25 and OAC 165:26.

(A) **Vapor monitoring wells.** If vapor monitoring wells are an owner or operator's selected method of leak detection, the Fuel Specialist must ensure that the requirements listed below are met:

(i) Wells must be correctly installed and sufficient in number for the particular facility.

(ii) A monitoring well site assessment must be completed with documentation of Commission acceptance kept on site for review.

(iii) Wells must be properly monitored and the results recorded every 30 days on the appropriate OCC form.

(iv) Any single vapor monitoring well reading above 4,000 units/ppm for gasoline and 1,500 units/ppm for diesel shall be reported to a Commission Project Environmental Analyst by telephone at (405) 521-4683 (if after hours or on weekends or holidays, call the PSTD emergency number at (405) 823-0994) within 24 hours of the owner, operator, employees, agents, or Monitor Well Technicians knowing of the reading. If gasoline and diesel tanks are in the same tankpit, any reading above 1,500 units/ppm shall be reported. If high readings have not been reported, the Fuel Specialist shall immediately report it.

(B) **Groundwater monitoring wells.** The Fuel Specialist must ensure, if groundwater monitoring wells are an owner or operator's method of leak detection, that the requirements listed below are met:

(i) Wells must be correctly installed and sufficient in number for the particular facility.

(ii) A monitoring well site assessment must be completed with documentation of Commission acceptance kept on site for review.

(iii) Wells must be properly monitored and the results recorded every thirty (30) days on the appropriate OCC form.

(iv) Any indication of product discovered shall be reported to a Commission Project Environmental Analyst by telephone at (405) 521-4683 (if after hours or on weekends or holidays, call the PSTD emergency number at (405) 823-0994) within 24 hours of the owner, operator, employees, agents,

or Monitor Well Technicians knowing of its presence. If the discovery of product has not been reported, the Fuel Specialist shall immediately report it.

**(C) Statistical Inventory Reconciliation (SIR).**

(i) Deliveries, withdrawals and balance remaining must be recorded each operating day and data must be reconciled every thirty (30) days. Product deliveries must be reconciled with an appropriate device, and data must be reconciled every thirty (30) days. SIR records must demonstrate the following:

- (I) Report a quantitative result with a calculated leak rate;
- (II) Be capable of detecting a leak rate of 0.2 gallon per hour or a release of one hundred fifty (150) gallons within thirty (30) days, with a probability of detection of 0.95 and a probability of false alarm of 0.05; and
- (III) Use a threshold that does not exceed one-half (1/2) the minimum detectible leak rate.

(ii) The tank must be equipped with a drop tube and measured for water at least every thirty (30) days.

(iii) Records must be submitted to a certified SIR vendor for evaluation. Only third party certifications that have been reviewed and approved by the National Work Group on Leak Detection Evaluations (NWGLDE), found at the NWGLDE website, will be accepted ([www.nwglde.org](http://www.nwglde.org)).

(iv) Results of SIR analysis must be on premises for inspector review every thirty (30) days.

(v) The equipment used must be capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").

(vi) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.

(vii) SIR analysis reports must include a summary report of the quantitative results.

**(D) Automatic tank gauging (ATG).**

(i) The ATG must be in operating condition. It must perform a test at least once every thirty (30) days capable of detecting a 0.1 or 0.2 gallons per hour (gph) leak rate; and if the system detects a 0.2 gph leak rate, inventory reconciliation must be completed in conjunction with it.

(ii) If the Fuel Specialist has concerns about the operation of the system, they may require notice and be present when an authorized person is printing relevant reports from the ATG.

**(E) Manual tank gauging.** If manual tank gauging is the selected form of release detection Fuel Specialists must determine that the test duration is appropriate, and ~~that tank tightness testing is performed in conjunction with manual tank gauging~~ in accordance with OAC ~~165:25 and 165:26~~ [165:25-3-6.26](#). Manual tank gauging may only be used on tanks 1,000 gallons or less.

**(F) Interstitial monitoring.** Sampling or testing must be capable of detecting a leak at least every thirty (30) days in accordance with the manufacturer's instructions.

(G) **Other methods.** If a method of leak detection other than those listed in this Chapter is used, it must be approved by PSTD and checked by the Fuel Specialist.

(3) **Leak detection on pressurized lines.** The Fuel Specialist must check for leak detection on pressurized piping. A complete list of requirements is in OAC ~~165:25~~165:25-3-6.29 and ~~165:26~~OAC 165:26-3-20.2. ~~All pressurized piping must have electronic/automatic or mechanical line leak detectors capable of detecting a three (3) gallons per hour leak. New installations and facilities replacing a piping system must have double-walled piping. An annual line tightness test is required unless the alternative criteria listed in (C) below are met.~~

~~(A) **Electronic/automatic and mechanical line leak detectors; sump sensors, floats and similar mechanical devices.**~~

~~(i) Automatic electronic or mechanical line leak detectors must be installed on all pressurized lines. Double-walled piping systems must have dispenser and tank sumps with a sensor, float or similar mechanical device installed at each submersible pump or at the lowest sump at the lowest island for each tank, whichever is at the lowest end of the piping gradient.~~

~~(ii) The line leak detectors, floats and other devices must be tested annually according to manufacturer's specifications.~~

~~(B) **Annual line tightness testing.** An annual line tightness test, either hydrostatic or electronic, must be performed unless the requirements of (C) below are met.~~

~~(C) **Alternative to line tightness testing.** A certified electronic line leak detector may be used in lieu of an automatic mechanical line leak detector and annual tightness test only if:~~

~~(i) The system is capable of detecting and tests for a leak of three (3) gallons per hour before or after each operation of the submersible turbine pump; and~~

~~(ii) The system is capable of detecting and tests for a leak of 0.2 gallons per hour at least once every thirty (30) days; and~~

~~(iii) The system is capable of detecting and tests for a leak of 0.1 gallons per hour annually, and the system is tested annually in accordance with manufacturer's specifications.~~

~~(D) **Vapor monitoring wells.** If vapor monitoring wells are an owner or operator's selected method of leak detection, the Fuel Specialist must ensure that the requirements listed below are met:~~

~~(i) There must be a sufficient number of wells limited to a twenty foot (20') radius around the lines, and the wells must be properly marked and secured.~~

~~(ii) Wells must be correctly installed, and the PSTD approved monitoring well site assessment must be made available to the Fuel Specialist.~~

~~(iii) Wells must be properly monitored and the results recorded every thirty (30) days.~~

~~(E) **Interstitial monitoring.**~~

~~(i) All double-walled piping must be sloped to allow a leak to flow to the sump at the tank or dispensers.~~

~~(ii) Containment sumps connected to product piping must be equipped with at least one sump sensor at the lowest end of the piping gradient.~~

~~(iii) Sump sensors must detect any liquid or leaking petroleum product in accordance with the manufacturer's specifications.~~

~~(4) Suction piping. A line tightness test must be performed every three (3) years according to manufacturer's specifications unless one of the line leak detection methods listed above is used, or unless it is safe suction piping that meets the specifications of (5) below.~~

~~(5) Safe suction piping. No annual line tightness test and no leak detection method is required if piping meets these specifications: below grade piping must operate under vacuum, be sloped to allow product to drain back into the tank, and have only one check valve installed on each line directly below the pump. Compliance with these standards must be readily determined by the Fuel Specialist.~~

(6) **Cathodic protection.** The Fuel Specialist must ensure that cathodic protection is installed and in proper working order for all metal tanks and piping that routinely contain regulated substances or product and are in contact with the ground. Cathodic protection can be an impressed current or galvanic system with these requirements:

(A) A site map and anode information should be made available to the Fuel Specialist and all tanks and lines must be protected.

(B) Continuity tests must be conducted, and the soil-to-structure potential must be at least -0.85 volts.

(C) ~~Rectifier and cathodic~~ Cathodic protection tests must be performed by a qualified licensed cathodic protection tester once every three (3) years.

(D) Rectifier readings on impressed current systems must be recorded at least every sixty (60) days and kept on site for review.

**Striking outdated language, referencing the rule numbers where the current list of requirements can be found, CP tests must be conducted by licensed testers, grammatical corrections.**

## SUBCHAPTER 9. DESCRIPTION OF MOTOR FUEL

### 165:15-9-2. Display on dispenser

(a) Every dispenser or delivery device regulated by the Commission used for sale of motor fuel to the public must ~~legibly display the~~ have a label that clearly identifies every type of motor fuel offered for sale.

(b) Motor fuel containing fifteen percent (15%) ethanol, commonly referred to as E15, must be labeled as the following:

(1) The label is 3.625 inches (9.20 cm) wide x 3.125 inches (7.93 cm) long. "Helvetica Black" or equivalent type is used throughout. Use black letters on an orange background for the lower portion and the diagonal "Attention" field and use orange letters on a black background for the rest of the upper portion. Set vertical position and line spacing as appropriate for each field. The band at the top of the label contains the following:

(A) The band should measure 1.25 inch (3.175 cm) deep. The type in the band is centered both horizontally and vertically. The first line is the text "E15" and is in 42-point font. The second line is in 14-point font, at least 1/8 inch (.32 cm) below the first line and is in the text "Up to 15% ethanol".

(B) The type below the black band is left-justified. The first line is the text: "Use only in" and is in 20-point font. The second line is a bullet point, in 14-point font,



at least 1/8 inch (.32 cm) below the first line and is the text: “2001 and newer passenger vehicles.” The third line is a bullet point, in 14-point font, at least 1/8 inch (.32 cm) below the second line and is the text “Flex-fuel vehicles”. The fourth line is in 12-point font, at least 1/8 inch (.32 cm) below the first line and is the text “Don’t use in other vehicles, boats or gasoline-powered equipment. It may cause damage and is *prohibited* by Federal law.” The word “prohibited” is bold and italic.

~~(b)~~(c) Any other 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".

**Clarify that all fuel sold must have a label on dispenser, adding specifications for E15 labels (17 O.S. § 347 - SB255 / effective November 1, 2023), and grammatical correction.**

**CHAPTER 25**  
**DRAFT PROPOSED RULES**  
**OCTOBER 23, 2023**

## 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.

**"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.

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

**"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.

**"OCC Licensed Tester" or "licensed tester" means an individual who has a current license issued by PSTD to perform tank system testing.**

**"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), 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. 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.

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

~~**"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 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.

**"Repair"** means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.

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

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

**Clarifying the definition of a corrosion expert, adding a new definition for an OCC licensed tester, and striking a definition for terminology not used in the rules.**

## PART 5. SCOPE OF RULES

### 165:25-1-21. Overview of applicability and enforcement

This Chapter applies to owners, operators, their employees and agents of all underground storage tank systems for which the Commission has been given regulatory responsibility by 27A O.S. (~~Supp. 1999~~) § 1-3-101(E)(5)(~~b~~)(a) and 17 O.S. § 301 et seq.

**Correcting statutory references.**

## PART 9. NOTIFICATION AND REPORTING REQUIREMENTS

### 165:25-1-48. Tank and line tightness testing

- (a) Tank and line tightness testing results in which any part of the tank system tested does not pass must be reported to the PSTD within twenty-four (24) hours by the owner, operator, their employees or agents, and also independently by the person or company performing the test. Complete test results must be submitted within seven (7) days of testing.
- (b) Tank tests must include both the wetted portion and ullage portion of the tank.
- (c) Hydrostatic line tightness tests and line leak detector tests must be conducted by a ~~certified~~ licensed tester, if applicable, in accordance with manufacturer's instructions, and reported on the prescribed PSTD form.
- (d) The licensed tester performing line and leak detector tests must also certify that the line leak detector is installed properly.
- (e) All personnel performing tank and line testing must have the required license, education, experience, knowledge and competence to correctly perform testing services in accordance with the testing equipment, manufacturer certification and applicable industry standards or codes.
- (f) Tank and line tightness testing must be scheduled by submitting the PSTD scheduling form in the established online format and PSTD staff may be present.

**Grammatical and punctuation corrections for regulatory text, and tightness testing must be performed by a licensed tester.**

## PART 11. RECORDKEEPING

### 165:25-1-53. Availability of records

- (a) Owners and operators of underground storage tank systems regulated by this Chapter must cooperate with PSTD requests for submission of records.
- (b) Each owner/operator must provide written notice of any address change within thirty (30) days to the PSTD office.
- (c) All leak detection records, including but not limited to, sampling, testing, inventory and monitoring records, must be available on site for each tank for the preceding three (3) years. Emergency generator tanks at unmanned locations are not required to keep leak detection records at the facility, and may forward any required records to the PSTD office or upon request to the PSTD Fuel Specialist.
- (d) Copies of the following records must be readily available to, or emailed and received by, the PSTD Fuel Specialist before the inspection is completed:
  - (1) Tank tightness tests, thirty (30) day inventory reconciliation, statistical inventory reconciliation, vapor or groundwater monitoring, automatic tank gauge tests, and interstitial monitoring results that demonstrate compliance with release detection for

tanks.

- (2) Line tightness tests, electronic line tests, all sensor and alarm history results, and line leak detector function tests that demonstrate compliance with release detection for lines.
  - (3) Installation and repair records for spill containment, overfill prevention, tank and piping construction must be maintained for three (3) years and readily available to PSTD.
  - (4) Cathodic protection records specified in this Subchapter (OAC 165:25-1-56), tank lining certificates, and any other records that demonstrate compliance with corrosion protection for the tank system must be maintained and readily available to PSTD.
  - (5) Current owner and tank system registration and current permit for all tanks located at the facility.
  - (6) Current certificate(s) of training for all classes of operators.
  - (7) Records that document compatibility with underground petroleum storage tank systems storing regulated substances containing greater than ten percent (10%) ethanol or twenty percent (20%) biodiesel. These records must be maintained at the facility for as long as the tank system is used to store these substances.
  - (8) Beginning October 13, 2018, owners and operators must maintain records of annual operation and maintenance tests on the electronic and mechanical components of release detection equipment. Records must be maintained for three (3) years and at a minimum must list each component tested, indicate whether each component needed to have action taken and describe any action taken to correct the issue. ~~Walkthrough inspections, spill and overfill testing as well as containment sump testing are also required beginning October 13, 2018, and at least every three (3) years thereafter.~~ Records of 30-day and annual walkthrough inspections and containment sump testing must be maintained according to the requirements in OAC 165:25-1-60. Records of overfill inspections and spill prevention equipment testing must be maintained according to the requirements in OAC 165:25-1-57.
  - (9) A copy of the site assessment for groundwater or vapor monitoring must be kept at the facility for as long as this method is used as release detection.
- (b) Failure to have the required records available upon request by PSTD may result in enforcement action. Release detection records, overfill prevention equipment inspection records, spill prevention equipment testing records, and containment sump testing records must be maintained on Commission forms.

**Clarifying recordkeeping for walkthrough inspections, sump, spill and overfill testing, and citing the rules where the specific requirements can be found.**

## **PART 11. RECORDKEEPING**

### **165:25-1-56. Release detection and cathodic protection records**

- (a) Owners and operators of underground storage tank systems regulated by this Chapter must maintain release detection records for three (3) years.
- (b) Owners and operators of underground storage tank systems regulated by this Chapter who use cathodic protection ("CP") must maintain the following records.
  - (1) Original cathodic protection design with drawings, plans, description of materials used, and suitability study depicting all of the cathodic protection system components in accordance with National Association of Corrosion Engineers (NACE) RP0285.

- (2) Rectifier readings for impressed current systems conducted at least every 60 days on the appropriate OCC form.
  - (3) Results of the last three inspections or cathodic protection system tests completed by a licensed corrosion protection tester.
- (c) If observation wells are used as release detection, the PSTD approved site assessment must be maintained on site.
- (d) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least three (3) years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five (5) years from the date of installation.

**Adding an abbreviation for cathodic protection, and corrosion protection systems testing must be performed by a licensed CP tester.**

## PART 17. LICENSING PROCEDURES

### 165:25-1-100. Licensing procedures for Testers

- (a) Any individual who would like to become an OCC Licensed Tester must submit the following in accordance with a format established by PSTD:
- (1) Complete the OCC application form.
  - (2) Submit applicable certifications for the type of testing they wish to be licensed for.
  - (3) Sump testing, sensor testing, spill bucket testing and overfill testing will require proof that applicant has passed the PEI RP 1200 exam.
  - (4) Tank testing, line testing, corrosion protection testing, leak detector testing, and ATG testing applicants must provide certifications.
  - (5) Fees must be paid in accordance with OAC 165:5.
- (b) No individual shall test an UST system unless that individual is licensed as required by this rule.

**New rule and procedures for licensing storage tank testers.**

### **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 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.
  - (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, [OAC 165:27](#), [OAC 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.
- (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.
- (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.
- (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.

**Clarifying that the Chapter references are Administrative Code citations.**

## **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, 2021, "Flammable and Combustible Liquids Code."
  - (B) Standard Number 329, 2020, "Handling Releases of Flammable and Combustible Liquids and Gases."
  - (C) Standard Number 385, 2022, "Tank Vehicles for Flammable and Combustible Liquids."
  - (D) Standard Number 326, 2020, "Safeguarding Tanks and Containers for Entry, Cleaning and Repair."
  - (E) Standard Number 30A, 2021, "Motor Fuel Dispensing Facilities and Repair Garages."
- (2) American Petroleum Institute Standards
  - (A) Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems." Sixth Edition, April 2011, Reaffirmed May 2020.
  - (B) Recommended Practice 1632, "Cathodic Protection of Underground Storage Tank and Piping Systems." Third Edition, May 1996, Reaffirmed December 2010.
  - (C) Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks." Fourth Edition, February 2021.
  - (D) Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks." Fifth Edition, June 2001, Reaffirmed May 2020.

- (E) Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets." Fifth Edition, May 1993, Reaffirmed May 2020.
  - (F) Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline - Ethanol Blends at Distribution Terminals and Filling Stations." Second Edition, August 2010, Errata February 2011, Addendum August 2012, Reaffirmed May 2020.
  - (G) Recommended Practice 1627, "Storing and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations." First Edition, August 1986, Reaffirmed January 2000.
  - (H) Publication 1628, "A Guide to the Assessment and Remediation of Underground Petroleum Releases." Third Edition, July 1996.
  - (I) Recommended Practice 2200, "Repairing Hazardous Liquid Pipelines." Fifth Edition, September 2015.
  - (J) Standard 2015, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks." Eighth Edition, January 2018.
  - (K) Recommended Practice 1637, "Using the API Color Symbol System to Identify Equipment, Vehicles, and Transfer Points for Petroleum Fuels and Related Products at Dispensing and Storage Facilities and Distribution Terminals. Fourth Edition, April 2020.
- (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 SP0285-2021, "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 2022, "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, 2018, "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, 2021, "Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas."
  - (E) Standard UL971 ~~Bulletin-2011~~[2021](#), "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 ~~400-20~~100-22 (~~2020 Edition~~)(2022 Edition) "Recommended Practices for Installation of Underground Liquid Storage Systems."
  - (B) PEI/RP 400-18 (2018 Edition), "Recommended Procedures for Testing Electrical Continuity of Fuel Dispensing Hanging Hardware."
  - (C) PEI/RP 500-19 (2019 Edition), "Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment."
  - (D) PEI/RP 900-21 (2021 Edition), "Recommended Practices for the Inspection and Maintenance of UST Systems."
  - (E) PEI/RP 1000-22 (2022 Edition) "Marina Fueling Systems"
  - (F) PEI/RP 1200-19 (2019 Edition), "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."
  - (G) PEI/RP 1300-20 (2020 Edition), "Recommended Practices for the Design, Installation, Service, Repair and Maintenance of Aviation Fueling Systems."
  - ~~(G)~~(H) PEI/RP 1700-18 (2018 Edition), "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems."
- (4) Steel Tank Institute:
- (A) STIP3<sup>®</sup>, "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<sup>®</sup>, 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<sup>®</sup>."
  - (H) RP-R051, "Cathodic Protection Testing Procedures for STI-P3<sup>®</sup> Underground Storage Tank Systems."
- (5) Factory Mutual 1920, "Flexible Pipe Couplings."
  - (6) National Leak Prevention Association (NLPA) Standard 631, "Spill Prevention, Minimum 10 Year Life Extension, Existing Steel UST by Lining without Additional Cathodic Protection."
  - (7) National Groundwater Association, 1986, "RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD)."
  - (8) 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)."
  - (9) Ken Wilcox Associates, Inc., First Edition: "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."
  - (10) NLPA/KWA Standard 823, "Preventative Maintenance, Repair and In-situ Construction of Petroleum Sumps."

## Updating standards to current edition and adding the standard for aviation tank systems.

### PART 3. DESIGN AND INSTALLATION

#### 165:25-2-39. Spill and overfill protection

- (a) Owners and operators of underground storage tank systems, their employees or agents, as well as those who transport regulated substances to these systems must do everything reasonably possible to ensure that releases due to spilling and overfilling do not occur.
- (b) Owners, operators, their employees or agents, or transporters must ensure that the volume available in the tank (ullage) is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
- (c) Tight fill connections must be used on all deliveries made to underground storage tanks.
- (d) Tampering with overfill protection is not permitted. Any violation of this Section will be subject to the enforcement procedures of this Chapter resulting in fines, contempt proceedings, and/or shutdown of operations as provided by law.
- (e) Except as provided in ~~(e)~~(h) of this Section, in order to prevent spilling and overfilling associated with product transfer to the petroleum storage tank system, the following prevention equipment must be used:
- (1) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill bucket).
  - (2) Overfill prevention equipment that will automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full.
    - (A) A drop tube with overfill device is required on all tank systems installed after July 1, 2001.
    - (B) Tanks installed before July 1, 2001, must be upgraded to meet these standards before July 1, 2002, unless equipped with an operational ball float overfill device. Use of ball floats is prohibited with suction systems. Staff may require a ball float functionality test.
    - (C) Ball float valves that are inoperable cannot be repaired and instead must be replaced with a drop tube with flapper valve, or
    - (D) A mechanism to prevent overfilling by sounding an alarm when the liquid level in the tank reaches ninety percent (90%) of capacity and by automatically stopping the delivery of liquid to the tank when the level in the tank reaches ninety-five percent (95%) of capacity.
- (f) On new installations, overfill prevention equipment must be inspected for proper operation at installation and at least once every three (3) years thereafter. Existing systems must inspect overfill prevention equipment for proper operation by October 13, 2018 and at least once every three (3) years thereafter by a licensed tester. When inspecting, owners and operators must at a minimum ensure the overfill prevention equipment is set to activate at the correct level in the tank and will activate when regulated substances reach that level. Overfill prevention equipment and spill prevention equipment testing must be scheduled by submitting the PSTD scheduling form in the established online format and PSTD staff may be present.
- (g) On new installations, spill prevention equipment must be tested for liquid tightness at installation and at least once every three (3) years thereafter by a licensed tester or use a double-walled spill bucket with periodic interstitial monitoring that is monitored at least every thirty (30) days. Existing systems must test spill prevention equipment for liquid tightness by October 13, 2018 and at least once every three (3) years thereafter or use a double-walled spill bucket with periodic interstitial monitoring that is monitored at least every thirty (30) days.

(h) The spill and overflow prevention equipment specified in ~~(d)~~(e) of this Section is not required if the underground storage tank system is filled by transfers of no more than twenty-five (25) gallons at one time.

(i) Owners and operators must contain and immediately clean up any spill or overflow of regulated substances less than twenty-five (25) gallons within twenty-four (24) hours of incident occurrence. If the spill or overflow 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) in Chapter 29 of Commission rules.

**Spill and overflow equipment testing must be performed by a licensed tester, testing must be scheduled using PSTD's online format, and correcting subsections referenced in the rule.**

### **165:25-2-40. Installation testing**

(a) All tanks must be tested with air pressure prior to installation, and/or tested according to manufacturer's specifications. Pressure must not exceed 5 pounds per square inch (psi). The entire tank must be soaped during this period and inspected for bubbling.

(b) All suction piping must be tested while disconnected from the tank, pumps, and dispensing units. The piping must be subjected to an air test with the following specifications:

(1) The piping must be subjected to an air test of at least 50 psi for a period of one hour.

(2) All piping joints must be soaped while the system is under pressure, in order to detect any possible leaks.

(3) As an alternative to the preceding methods in (1) and (2) above, the piping may be subjected to a vacuum test while connected to tanks, pumps and dispensing units.

(c) Pressurized piping must be tested while connected to tanks and pumps. The piping must be subjected to an air test of at least 50 psi.

(1) Air test secondary piping for a period of one hour, using the test pressure prescribed by the piping manufacturer.

(2) Apply soap solution to all joints and piping surfaces and inspect for leaks.

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

(e) Tightness (also called precision) testing of the entire system must be performed after all paving over the tanks and piping has been completed and before the system is placed in operation:

(1) A precision tightness test must be performed by a ~~certified~~licensed tester, and in accordance with manufacturer's instructions; or

(2) The following alternative to a precision tightness test will be accepted, but only if conducted before the system is put into service:

(A) A certified ATG capable of detecting a leak of 0.10 gallons per hour must be used to test the filled portion of the tank and

(B) A precision tightness test of the ullage portion of the tank must be completed by a licensed tester.

(3) Testing of both interstice and primary tank of a double wall tank as specified by tank manufacturer must be performed.

(4) Primary tank openings, manways and risers must be tested during the installation of all double wall tanks.

(5) The product line(s) must be hydrostatically tested by a licensed tester using a NWGLDE approved testing device capable of detecting a leak of 0.10 gallons per hour at one and one-half times the operating pressure and tested in accordance with the testing devices third party

certification.

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

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

(8) Containment sumps must be tested at installation by the licensed UST Installer or a licensed tester after all piping and conduit has been installed along with spill prevention equipment (spill buckets) by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

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

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

**Tank and line tightness testing must be performed by a licensed tester at installation, clarifying that containment sumps must be tested by either the licensed UST Installer or a licensed tester at installation, and a grammatical correction.**

## PART 5. PROTECTION AGAINST CORROSION

### 165:25-2-53. Frequency and criteria of inspections and tests

(a) All cathodic protection systems must be tested within six (6) months of installation and/or repair, and at least once every three (3) years thereafter by a licensed cathodic protection tester.

(b) Cathodic protection testing, repair, or three (3) year recertification must be scheduled ~~at least 24 hours before~~ by submitting the PSTD scheduling form and PSTD staff may be present.

(c) Every sixty (60) days impressed current cathodic protection systems must be inspected by the owner or owner's designated representative to ensure the equipment is working properly.

(d) The criteria ~~that are~~ used to determine whether cathodic protection is adequate must be in accordance with a code of practice developed by a nationally recognized organization, such as NACE RP-0285.

(e) All personnel performing cathodic protection system testing must have the required license, education, current corrosion certification, experience, knowledge and competence to correctly perform testing services in accordance with a certified course and applicable industry standards or codes.

**Cathodic protection testing must be performed by a licensed CP tester at least once every 3 years, striking redundant regulatory text, and grammatical and punctuation corrections.**

## PART 7. DISPENSERS

### 165:25-2-75.1. Display on dispenser

(a) Every dispenser or delivery device regulated by the Commission used for sale of motor fuel to the public must ~~legibly display the~~ have a label that clearly identifies every type of motor fuel offered for sale.

(b) Motor fuel containing fifteen percent (15%) ethanol, commonly referred to as E15, must be labeled as the following:

(1) The label is 3.625 inches (9.20 cm) wide x 3.125 inches (7.93 cm) long. “Helvetica Black” or equivalent type is used throughout. Use black letters on an orange background for the lower portion and the diagonal “Attention” field and use orange letters on a black background for the rest of the upper portion. Set vertical position and line spacing as appropriate for each field. The band at the top of the label contains the following:

(A) The band should measure 1.25 inch (3.175 cm) deep. The type in the band is centered both horizontally and vertically. The first line is the text “E15” and is in 42-point font. The second line is in 14-point font, at least 1/8 inch (.32 cm) below the first line and is in the text “Up to 15% ethanol”.

(B) The type below the black band is left-justified. The first line is the text: “Use only in” and is in 20-point font. The second line is a bullet point, in 14-point font, at least 1/8 inch (.32 cm) below the first line and is the text: “2001 and newer passenger vehicles.” The third line is a bullet point, in 14-point font, at least 1/8 inch (.32 cm) below the second line and is the text “Flex-fuel vehicles”. The fourth line is in 12-point font, at least 1/8 inch (.32 cm) below the first line and is the text “Don’t use in other vehicles, boats or gasoline-powered equipment. It may cause damage and is *prohibited* by Federal law.” The word “prohibited” is bold and italic.

~~(b)~~(c) Any other 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".

**Clarifying regulatory text, adding the specifications for E15 labels (17 O.S. § 347 / SB255 effective November 1, 2023), correcting the next sequential subsection, clarifying other fuel labeling requirements.**

## **PART 11. REPAIRS TO UNDERGROUND STORAGE TANK SYSTEMS**

### **165:25-2-111. Repairs to underground storage tank systems**

- (a) Repairs to underground storage tank systems must prevent releases due to structural failure or corrosion for the remaining operational life of the system.
- (b) Repairs shall be conducted by qualified personnel possessing the appropriate skills, experience, competence, and any required license or certification to complete the work in accordance with provisions of this Chapter.
- (c) Any repair shall be properly conducted in accordance with a standard or code of practice developed by a nationally recognized association or independent testing laboratory.
- (d) Requirements of this Section do not apply to routine and minor maintenance activities related to the tank and piping system.
- (e) Following completion of repairs, a tank or line tightness test must be performed by a ~~certified~~ licensed tester and is required prior to returning tank or line to service.
- (f) Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and repairs to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness by a licensed tester within thirty (30) days following completion of the repair. This testing must be conducted according to the manufacturer's instructions or a code or practice developed by a nationally recognized association or independent testing laboratory.
- (g) A tightness test of spill prevention equipment must be performed within thirty (30) days following repairs to such spill prevention equipment. This testing must be conducted by a licensed

[tester](#) according to the manufacturer's instructions or a code or practice developed by a nationally recognized association or independent testing laboratory.

(h) Overfill prevention equipment must be inspected within thirty (30) days following repairs to it to ensure it is operating properly. This inspection must be conducted according to the manufacturer's instructions or a code or practice developed by a nationally recognized association or independent testing laboratory.

**After repairs a tightness test must be performed by a licensed tester.**

## **PART 13. REMOVAL AND CLOSURE OF UNDERGROUND STORAGE TANK SYSTEMS**

### **165:25-2-134. Requirements for returning to service/use**

When an underground storage tank system is returned to service/use a tank tightness test, line tightness test, and a leak detector test must be performed by a ~~certified~~ [licensed](#) tester must be completed on the underground portion of temporarily closed systems prior to returning the system to service if it has been out of service/use for more than twelve (12) months. Any system failure will require either closure or upgrade of the failed portion. Additional testing shall be required on any portion of the tank system considered detrimental to release detection depending upon the type of tank system installed. Notify PSTD on the prescribed "Return to Service" form when returning a system to service/use along with copies of all testing and the tank registration fees.

**Tank, line, and leak detector testing must be performed by a licensed tester when a tank system is returned to service.**

### **165:25-2-136. Assessing the site at closure or change in service**

(a) When [permanent closure](#), a change in service, tank or line repair, and/or replacement is completed, the owner/operator must measure for the presence of a release where contamination is most likely to be present at the underground storage tank system site. [Please refer to the UST Closure Sampling Requirements document on PSTD's website.](#)

(b) ~~Please refer to the PSTD removal/closure/change of service sampling document on PSTD's website.~~ [For tank systems containing petroleum product, analyses may be done for BTEX and TPH \(GRO and/or DRO, whichever is appropriate\), along with total lead, if appropriate.](#)

(c) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered, the owner must immediately begin corrective action in accordance with Chapter 29 of Commission rules.

(d) All sampling at closures must be under the supervision of a Licensed Environmental Consultant.

**Clarifying when samples should be taken, adding the name of the sampling document and where it is located, striking redundant text, and clarifying sampling requirements set forth in Chapter 29.**

## **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 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 [by a licensed tester](#) 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.

[\(f\) Annual operation and maintenance tests on electronic and mechanical components of release detection equipment must be scheduled by submitting the PSTD scheduling form in the established online format and PSTD staff may be present.](#)

**Annual operation and maintenance testing of release detection equipment must be performed by a licensed tester, adding the next sequential subsection, and testing must be scheduled using PSTD's online format.**

### **165:25-3-6.29. Monitoring requirements for piping**

Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets the following requirements:

**(1) Pressurized piping.**

(A) All underground piping that conveys regulated substances under pressure must be equipped with a mechanical or electronic line leak detector installed and operated in accordance with this Chapter.

(B) New installations and facilities replacing a piping system must have a sump sensor, float or similar mechanical device at each tank, transition, and dispenser sump. Sensors should be mounted near the bottom of the sump(s) and accessible for annual testing.

(C) New installations and facilities replacing a piping system must have double-walled piping. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs

(D) The underground pressure piping from the master dispenser to the satellite must be designed and installed so that the satellite piping is tested by the automatic line leak detector. An annual line tightness test is required on the satellite underground piping.

**(2) Suction piping.**

(A) Suction piping installed after July 1, 2008 must be double-walled piping. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs.

(B) New installations and facilities replacing a piping system must have a sump sensor, float or similar mechanical device at each tank, transition, and dispenser sump. Sensors should be mounted near the bottom of the sump(s) and accessible for annual testing.

**(3) Methods of release detection for pressurized piping.** Each method of release detection for piping must be done in accordance with the following requirements.

(A) Mechanical line leak detectors and annual line tightness testing.

(i) An annual function test of the operation of the leak detector must be conducted by simulating a leak.

(ii) A hydrostatic line tightness test must be done annually by a ~~certified~~ licensed tester. The product line(s) must be hydrostatically tested by a NWGLDE approved testing device capable of detecting a leak of 0.10 gallons per hour at one and one-half times the operating pressure and tested in accordance with the testing devices third party certification.

(B) Sump sensors with automatic line leak detectors.

(i) Double walled piping with sump sensors, floats or similar mechanical devices at each sump may be used in lieu of annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.

(ii) The sump sensors, floats or other mechanical devices used must be tested annually. Sensors status and alarm history reports must be printed and retained or use an interstitial monitoring form every thirty (30) days for systems installed after July 1, 2008.

(iii) An annual function test of the operation of the leak detector must be conducted by simulating a leak.

(C) Electronic line leak detection. A certified electronic line leak detector may be used in lieu of a mechanical line leak detector and annual tightness test only if:

(i) The system is capable of detecting and tests for a leak of three (3) gallons per hour before or after each operation of the submersible turbine pump; and

- (ii) The system is capable of detecting and tests for a leak of 0.2 or 0.1 gallons per hour at least once every thirty (30) days; and
- (iii) The system is capable of detecting and tests for a leak of 0.1 gallons per hour annually, AND the system is function tested annually by simulating a leak, and if necessary, calibrated.

**(4) Methods of release detection for suction piping.**

(A) Safe Suction Piping. No release detection is required for suction piping installed on or prior to July 1, 2008 if it is designed and constructed to meet (i) through (iv) below:

- (i) The below-grade piping operates at less than atmospheric pressure.
- (ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.
- (iii) One (1) check valve is included in each suction line.
- (iv) The check valve is located directly below and as close as is practical to the suction pump.

(B) Tri-annual Line Tightness Testing. Underground piping that conveys regulated substances under suction must have a line tightness test conducted at least every three (3) years by a ~~certified~~ licensed tester.

(C) Sump sensors.

- (i) Double walled piping with sump sensors, floats or similar mechanical devices at each sump may be used in lieu of tri-annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.
- (ii) The sump sensors, floats or other mechanical devices used must be tested annually by a licensed tester according to manufacturer's requirements. Sensors status and alarm history reports must be printed and retained or use an interstitial monitoring form every thirty (30) days for systems installed after July 1, 2008.

**Line tightness testing must be performed by a licensed tester.**

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

### **PART 1. GENERAL APPLICATION AND COMPLIANCE PROVISIONS**

#### **165:25-8-2. Release detection requirements for marinas**

Monitoring requirements for product lines, at a minimum, must consist of an annual line tightness test conducted no later than April 1st of each year by a licensed tester.

**Tightness testing on piping located at marinas must be performed by a licensed tester.**

## APPENDIX S. FIELD CITATIONS TABLE

\*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
<b>Registration &amp; Permit Requirements</b>		
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
<b>Notification Requirements</b>		
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
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
<b>Required Reports</b>		

<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
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
<b>General Leak Detection Requirements</b>		
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
<b>Spill Protection &amp; Overfill Prevention</b>		
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
<b>Operation &amp; Maintenance of Corrosion Protection</b>		
165:25-1-56(b)	Failure to maintain records of cathodic protection installation, repair, inspections or testing	\$250

<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
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 <del>qualified</del> <u>licensed</u> 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)
<b>Release Investigation</b>		
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
<b>Temporary Closure</b>		
165:25-2-133(a)(1)	Failure to operate and maintain corrosion protection in a temporarily closed storage tank system as required	\$500
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
<b>Permanent Closure</b>		
165:25-2-131(d)	Failure to use a PSTD licensed UST Remover	<del>\$500</del> <u>\$5,000</u>
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

<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
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
<b>Operation &amp; Maintenance</b>		
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
<b>Repairs</b>		
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	<del>\$500</del> <u>\$5,000</u>
	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
<b>Other Violations</b>		
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
<b>Administrative Penalty</b>	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.	

**Updating regulatory text for CP testers, and updating the amount of the fine that PSTD attorneys are currently recommending for failure to use a PSTD Licensed UST Remover for tank removal.**

**CHAPTER 26**  
**DRAFT PROPOSED RULES**  
**OCTOBER 23, 2023**



## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 1. PURPOSE AND DEFINITIONS

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

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

**"Aboveground storage tank"** or **"AST"** means a "Storage tank" as defined in 17 O.S. § 303(40) that has more than ninety percent (90%) of its volume above the surface of the ground.

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

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

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

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

**"ATG"** means automatic tank gauging.

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

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

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

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

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

**"Commission"** or **"OCC"** means the Oklahoma Corporation Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"OCC Licensed Tester" or "licensed tester" means an individual who has a current license issued by PSTD to perform tank system testing.**

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

**"Owner"** means any person as set forth in 17 O.S. § 303(27), 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. However, a real property owner who has a storage tank system located on their property that was taken out of service/use prior to November 8, 1984, is not considered to be a storage tank owner for any PSTD regulated purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Tank tightness testing" or "precision testing"** means a procedure for testing a

petroleum storage tank system's integrity.

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

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

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

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

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

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

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

**Clarifying the definition of a corrosion expert, adding a new definition for an OCC licensed tester, and striking a definition for terminology not used in the rules.**

## PART 5. STANDARDS AND CODES

### 165:26-1-31. Codes and standards

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

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

(A) ASME B31.3 ~~2020~~-2022, "Process Piping."

(B) ASME B31.4 ~~2019~~-2022, "Pipeline Transportation Systems for Liquids and Slurries."

(2) American Petroleum Institute (API) Standards:

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

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

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

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

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

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

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

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

- (6) Underwriter's Laboratory (UL) Standards:
  - (A) Standard UL142, (2021), "Steel Aboveground Tanks for Flammable and Combustible Liquids."
  - (B) Standard UL842, 2020, "Valves for Flammable Fluids."
  - (C) Standard UL971, ~~2011~~–2021, "Nonmetallic Underground Piping for Flammable Liquids."
- (7) Petroleum Equipment Institute:
  - (A) RP 200-19, "Installation of Aboveground Storage Systems" (2019 Edition).
  - (B) RP 1000-22, "Marina Fueling Systems" (2022 Edition).
  - (C) RP 1300-20, "Design, Installation, Service, Repair and Maintenance of Aviation Fueling Systems." (2020 Edition)
  - ~~(C)~~(D) RP 1700-18, "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems" (2018 Edition).
- (8) "Spill Prevention, Control and Countermeasure Regulation," 40 CFR 112.
- (b) The standards set forth in (a) of this Section are also available from the following sources:
  - (1) American National Standards Institute (ANSI), Thirteenth Floor; 11 West 42<sup>nd</sup> Street, New York City, New York, 10036; Telephone: (212) 642-4900.
  - (2) American Society of Mechanical Engineers (ASME), Three Park Ave., 23S2, New York, NY 10016-5990; Telephone (800) 843-2763.
  - (3) American Petroleum Institute (API), Publications and Distribution, 1220 "L" Street, N.W., Washington, D.C. 20005-4070; Telephone (202) 682-8000.
  - (4) American Society for Testing and Materials (ASTM), 100 Bar Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; Telephone (610) 832-9585.
  - (5) National Association of Corrosion Engineers (NACE), 1440 South Creek Drive, Houston, Texas 77084; Telephone (281) 492-0535.
  - (6) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101; Telephone (800) 344-3555.
  - (7) National Groundwater Association (NGWA), 601 Dempsey Road, Westerville, Ohio 43081; Telephone (614) 898-7791.
  - (8) Underwriter's Laboratory (UL), 333 Pfingsten Road, Northbrook, Illinois 60062; Telephone (847) 272-8800, extension 2612.
  - (9) Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma, 74101-2380; Telephone (918) 494-9696.

**Updating standards to current edition and adding the standard for aviation tank systems.**

## PART 7. NOTIFICATION AND REPORTING REQUIREMENTS

### **165:26-1-48. Tank and line tightness testing**

- (a) Tank and line tightness test results in which any part of the tank system tested does not pass must be reported to PSTD within twenty-four (24) hours by the owner, operator, their employees or agents, and also independently by the person or company performing the test. Complete test results must be submitted within seven (7) days of the testing.
- (b) Hydrostatic line tightness tests and line leak detector tests must be conducted by a ~~certified~~ licensed tester if applicable, in accordance with manufacturer's instructions, and reported on the ~~required~~ prescribed PSTD form.
- (c) The licensed tester performing line and leak detector tests must also certify that the line leak detector is installed properly.

(d) All personnel performing tank and line testing must have the required [license](#), education, experience, applicable certification, knowledge and competence to correctly perform testing services in accordance with the testing equipment, manufacturer certification and applicable industry standards or codes.

(e) Tank and line tightness testing must be scheduled by submitting the PSTD scheduling form [in the established online format](#) and PSTD staff may be present.

**Tightness testing must be performed by a licensed tester, matching existing regulatory text for the same rule in Chapter 25.**

## PART 9. RECORDKEEPING

### 165:26-1-57. Tank installation, closure and removal records

(a) Owners and operators of aboveground storage tank systems must maintain records regarding the installation for the lifetime of the system; or, at the owner's option, give copies of installation records to PSTD for retention in the Division's files. Owners who have purchased systems must maintain the installation information if it is available.

(b) Owners and operators of aboveground storage tank systems must maintain records capable of demonstrating compliance with the closure and removal requirements for tanks that are temporarily taken out of service or permanently removed at operating facilities.

(c) The owner, operator or Commission licensee hired by the owner and/or operator must submit the PSTD Closure Report Form and all required attachments to PSTD within forty-five (45) days from the date the tanks are permanently closed.

**Inserting punctuation (adding a period at the end of the sentence in subsection (c)).**

### 165:26-1-58. Release detection and corrosion protection records

(a) Owners and operators of regulated aboveground storage tank systems must maintain release detection records for a minimum of three (3) years.

(b) Owners and operators of regulated aboveground storage tank systems who use cathodic protection ("CP") must maintain the following records:

(1) Original cathodic protection design [with drawings, plans, description of materials used, and suitability study depicting all of the cathodic protection system components](#)

~~created~~ in accordance with National Association of Corrosion Engineers (NACE) [RP0285 recommended practices with drawings depicting all of the CP system components and a description of the materials used.](#)

(2) Suitability study performed to determine if a tank could be upgraded with corrosion protection.

(3) Rectifier readings for impressed current systems conducted at least every 60 days [on the appropriate OCC form.](#)

(4) Results of the last three inspections or CP system tests completed by a [licensed corrosion protection](#) tester.

**Matching existing regulatory text for the same rule in Chapter 25 for clarification, and corrosion protection system testing must be performed by a licensed CP tester.**

## PART 15. LICENSING PROCEDURES

### 165:26-1-110.2. Licensing Procedures for Testers

(a) Any individual who would like to become an OCC Licensed Tester must submit the following in accordance with a format established by PSTD:

- (1) Complete the OCC tester's Licensed Tester application form.
- (2) Submit applicable certifications for the type of testing they wish to be licensed for.
- (3) Sump testing, sensor testing, spill bucket testing and overfill testing will require proof that applicant has passed the PEI RP 1200 exam.
- (4) Tank testing, line testing, corrosion protection testing, leak detector testing, and ATG testing applicants must provide certifications.

(b) No individual shall test an AST system unless that individual is licensed as required by this rule.

### **New rule and procedures for licensing storage tank testers.**

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

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

- (1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.
- (2) Any gross negligence, incompetence or misconduct in **installation** work performed pursuant to this Chapter.
- (3) Knowingly making false statements or signing false statements, certificates or affidavits to PSTD or to clients.
- (4) Aiding or assisting another person in violating any provision of this Chapter.
- (5) Signing a verification statement for work performed pursuant to this Chapter which was not performed by the aboveground storage tank licensee.
- (6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.
- (7) Failure to comply with this Chapter, OAC 165:25, ~~165:26~~, OAC 165:27, OAC 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.

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

(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.

(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.

### **Striking regulatory text to match existing language for the same rule in Chapter 25, and clarifying that the Chapter references are Administrative Code citations.**

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

### PART 1. DESIGN AND INSTALLATION

#### 165:26-2-8. Installation testing

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

(1) All aboveground storage tanks must be tested to manufacturer's instructions. Single-wall tanks shall be air tested, soaped, and inspected for bubbling prior to installation. Double-wall tanks with a vacuum on the interstice: Check vacuum gauge to determine if the vacuum meets all minimum requirements set by the tank manufacturer. An air soap test is not required if the interstice vacuum meets tank manufacturer requirements.

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

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

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

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

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

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

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

(9) Containment sumps must be tested [at installation by the licensed AST installer or a licensed tester](#) after all piping and conduit has been installed by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

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



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

(10) Overfill prevention equipment must be inspected for proper operation at installation in accordance with one of the following criteria:

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

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

**Tank and line tightness testing must be performed by a licensed tester at installation, clarifying that containment sumps must be tested by either the licensed AST Installer or a licensed tester at installation, and clarifying that overfill prevention equipment must be inspected prior to use of the system.**

#### **PART 4. REQUIREMENTS FOR CORROSION PROTECTION SYSTEMS**

##### **165:26-2-42. Frequency and criteria of inspections and tests**

~~Cathodic protection systems must be inspected for proper operation by a qualified corrosion technician in accordance with the following requirements:~~

~~(1)(a) Cathodic~~ All cathodic protection systems must be tested within six (6) months of installation and/or repair, and at least once every three (3) years thereafter by a qualified licensed cathodic protection tester ~~who can demonstrate education and experience in the measurement of cathodic protection of buried or submerged metal piping systems and metal tanks.~~

(b) Cathodic protection testing, repair, or three (3) year recertification must be scheduled by submitting the PSTD scheduling form and PSTD staff may be present.

~~(2)(c)~~ Every sixty (60) days impressed current cathodic protection systems must be inspected by the owner ~~or operator (or owner's designated representative)~~ to ensure ~~that~~ the equipment is working properly.

~~(3)(d)~~ The criteria used to determine ~~that~~whether cathodic protection is adequate must be consistent in accordance with a code of practice developed by a nationally recognized organization, such as the National Association of Corrosion Engineers (NACE) RP-0285.

~~(4)(e)~~ All personnel performing cathodic protection system testing must have the required license, education, current corrosion certification, experience, knowledge and competence to correctly perform testing services in accordance with a certified course and applicable industry standards or codes.

**Striking redundant regulatory text, CP testing must be performed by a licensed CP tester, and adding regulatory text to match existing language for the same rule in Chapter 25.**

#### **PART 5. PIPING**

##### **165:26-2-55. Underground piping materials**

(a) All new underground product piping and ancillary equipment installed at a new facility or existing facility must have the following characteristics:

(1) Non-metallic;

(2) Double-walled;

(3) A tracer locator wire must be installed in all piping trenches; and

(4) Dispenser sumps must be installed and monitored with sensors as per OAC 165:26-3-20.2.

- (5) Piping transition sumps must be installed and monitored with sensors if the interstice area of connecting piping cannot be connected in an approved manner.
- (b) Existing facilities that are replacing the lesser of twenty feet (20') or fifty percent (50%) of underground piping must upgrade pursuant to (a) of this Section. If a metallic line fails due to structural failure or corrosion, all metallic product lines at the facility must be removed, and cannot be repaired.
- (c) Existing facilities that are making any alteration to a fuel island when concrete removal is required must install dispenser sumps and monitor as pursuant to [OAC 165:25-3-6.29](#). [Repairs to the island that in no way change the island from its original design is not considered making alterations.](#)
- (d) Existing facilities that are ~~replacing~~[installing new](#) dispensers must install [under dispenser containment \(UDC\) sumps and monitor as pursuant to OAC 165:25-3-6.29](#)~~if modifications are made below the dispenser cabinet.~~ [Dispensers will be considered new when both the dispenser and equipment needed to connect the dispenser to an AST system is installed. Check valves, shear valves, unburied risers or flexible connectors and other transitional components are considered equipment that connects a dispenser to an AST system.](#)
- (e) Tracer locator wire is not required to be installed in existing piping trenches containing piping which otherwise meets the requirements in subsection (a) unless the trench is opened to repair, move, or replace the piping.
- (f) Existing facilities that are replacing aboveground storage tanks must replace all single walled piping per (a) of this section.

**Clarifying the rules listed are Administrative Code citations, and matching regulatory text that was added to the same rule in Chapter 25 (RM 202100007) for when dispenser islands are repaired and when new dispensers are installed (clarification).**

## PART 9. DISPENSER REQUIREMENTS

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

(a) Every dispenser or delivery device regulated by the Commission used for sale of motor fuel to the public must ~~legibly display the~~ [have a label that clearly identifies every](#) type of motor fuel offered for sale.

(b) Motor fuel containing fifteen percent (15%) ethanol, commonly referred to as E15, must be [labeled as the following:](#)

[\(1\) The label is 3.625 inches \(9.20 cm\) wide x 3.125 inches \(7.93 cm\) long. "Helvetica Black" or equivalent type is used throughout. Use black letters on an orange background for the lower portion and the diagonal "Attention" field and use orange letters on a black background for the rest of the upper portion. Set vertical position and line spacing as appropriate for each field. The band at the top of the label contains the following:](#)

[\(A\) The band should measure 1.25 inch \(3.175 cm\) deep. The type in the band is centered both horizontally and vertically. The first line is the text "E15" and is in 42-point font. The second line is in 14-point font, at least 1/8 inch \(.32 cm\) below the first line and is in the text "Up to 15% ethanol".](#)

[\(B\) The type below the black band is left-justified. The first line is the text: "Use only in" and is in 20-point font. The second line is a bullet point, in 14-point font, at least 1/8 inch \(.32 cm\) below the first line and is the text: "2001 and newer passenger vehicles." The third line is a bullet point, in 14-point font, at least 1/8 inch \(.32 cm\) below the second line and is the text "Flex-fuel vehicles". The fourth line is in 12-point font, at least 1/8 inch \(.32](#)

cm) below the first line and is the text “Don’t use in other vehicles, boats or gasoline-powered equipment. It may cause damage and is *prohibited* by Federal law.” The word “prohibited” is bold and italic.

~~(b)~~(c) Any other 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".

**Clarifying regulatory text, adding the specifications for E15 labels (17 O.S. § 347 / SB255 effective November 1, 2023), correcting the next sequential subsection, and clarifying other fuel labeling requirements.**

## **PART 21. REMOVAL AND CLOSURE OF ABOVEGROUND STORAGE TANK SYSTEMS**

### **165:26-2-210. Tank removal and closure**

(a) Owners and Operators of all aboveground storage tank systems must notify the Petroleum Storage Tank Division at least fourteen (14) days prior to the removal or permanent closure of aboveground storage tanks and/or lines by submitting the PSTD scheduling form and receiving confirmation of the scheduled removal from PSTD. When scheduling a removal, a site map of where samples are to be taken should be attached to the scheduling form. If events require a change in the date of removal, the Division shall be given forty-eight (48) hours' notice prior to the new date.

(b) An authorized agent of PSTD may be present to observe the removal and to inspect the closed tank system and the surrounding environment prior to backfilling.

(c) Tanks, lines and ancillary equipment must be removed upon closure unless a Commission order grants a variance.

(d) An AST ~~Licensee~~ Remover must remove aboveground storage tank systems.

(e) Photos must be taken of tank(s), line(s), and soil at removal. In the event there is a hole in a tank or line, further photographic evidence is required. If tank(s), line(s) or excavated soil show evidence of a release, photos of the apparent release must be taken that indicate the release source.

**Matching regulatory text that was added for the same rule in Chapter 25 (RM 202100007) to ensure samples are taken in the correct location before closure activities begin. Correcting the name of the licensee for AST removals.**

### **165:26-2-212. Temporary removal from service**

When an aboveground storage tank system is taken temporarily out of service, the owner or operator must:

(1) Drain all fluid to less than one inch (1") of residue remaining in the tank.

(2) Leave all vent lines open and functioning.

(3) Cap and secure all other lines, pumps, manways and ancillary equipment.

(4) Lock all fill caps.

(5) Notify PSTD of a change in service on the prescribed form within thirty (30) days.

(6) A TOU AST that has been out of service for more than twelve (12) months and cannot be returned to service is subject to the permanent closure requirements found in OAC 165:26-2-213.

**Adding regulatory text to address TOU AST's that can never and will never be returned to service, e.g., USTs being used as ASTs and ASTs that are not UL listed.**

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

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

**Tightness testing when tanks are returned to service must be performed by a licensed tester.**

**165:26-2-213. Permanent closure**

Owners and/or operators of aboveground storage tank systems who do not intend to use the tanks for fuel storage in the future must close the tank systems after they have been out of service for more than twelve (12) months by performing the following:

- (1) Empty, clean, purge and ~~devaporize~~ vapor free the tank of all flammable products and vapors.
- (2) Separate the piping from the tank. All underground piping and ancillary equipment must be removed unless a Commission order grants a variance.
- (3) Perform a site assessment pursuant to OAC 165:26-2-214, "Assessing the site at tank closure or change in service".
- (4) An AST Remover must be on site at all times during the removal of an aboveground storage tank and/or lines.
- (5) All UST's currently being used as AST's must be destroyed upon closure. A certificate of destruction must be included with the AST Closure Report and submitted to PSTD within forty-five (45) days of closure.

**Stakeholder suggested revising regulatory text to more commonly used terminology and clarifying the rule listed is an Administrative Code citation.**

**165:26-2-214. Assessing the site at ~~tank~~ closure or change in service**

- (a) ~~Before permanent closure or a change in service~~ When permanent closure, a change in service, or tank or line repair, and/or replacement is completed, the owner or operator must measure for the presence of a release where contamination is most likely to be present at the aboveground storage tank system site. Please refer to the ~~PSTD sampling~~ AST Closure Sampling Location Requirements document on PSTD's website ~~when choosing sample locations~~.
- (b) For tank systems containing petroleum product, ~~analyses must be done for both TPH and BTEX~~ analyses may be done for BTEX and TPH (GRO and/or DRO, whichever is applicable), along with total lead if appropriate.
- (c) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered, the owner must immediately begin corrective action in accordance with Chapter 29 of Commission rules.

- (d) ~~Any~~All sampling at closures must be conducted under the supervision of a Licensed Environmental Consultant.
- (e) The requirements of this Section do not apply to aboveground storage tanks which are located in or on buildings.

**Clarifying the title of the subsection to match same rule in Chapter 25, clarifying when samples should be taken and match the same rule in Chapter 25, correcting the name of the sampling document and where it is located, striking redundant text, and clarifying sampling requirements set forth in Chapter 29.**

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

#### **PART 4. RELEASE DETECTION**

##### **165:26-3-20.1. Monitoring requirements for aboveground tanks and aboveground piping**

One of the following methods must be used:

(1) Visual Monitoring.

(A) Visual inspection of the aboveground storage tank systems to identify cracks or other defects in the secondary containment area and product transfer area.

(B) Visual inspection of the exterior surface of the tanks, piping, valves, pumps and other equipment for cracks, corrosion, releases and maintenance deficiencies; and identify poor maintenance, operating practices or malfunctioning equipment.

(C) Visual inspection of elevated tanks or tanks on concrete slabs.

(D) Visual inspection of the area between the tank's outer shell or the tank's floor and containment area or a vapor monitoring of the soil directly under the tank bottom or perimeter and the water table, unless the tank containment has a sound concrete floor.

(E) Visual inspections are not adequate where due to the nature of the aboveground storage tank and/or its secondary containment it cannot be determined whether a leak has occurred. A good example would be a vertical tank that is not raised off the ground, making it impossible to visually inspect its bottom, and is not sitting on a sound concrete slab within sound secondary containment.

(F) An annual line tightness test performed by a ~~certified~~ licensed tester may be used in lieu of thirty (30) day visual monitoring for aboveground product piping.

(2) Inventory Reconciliation. Product inventory control (or another test of equivalent performance) must be conducted at least every thirty (30) days to detect a release of at least one percent (1.0%) of flow-through plus 130 gallons on a thirty (30) day basis in the following manner:

(A) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount remaining in the tank are recorded each operating day.

(B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").

(C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.

(D) Product dispensing is metered and recorded within an accuracy of six (6) cubic inches for every five (5) gallons of product withdrawn.

(E) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth inch (1/8") at least once every thirty (30) days.

(F) Use of the PSTD Inventory Reconciliation Form or an electronic equivalent is required.

(3) **Interstitial Monitoring.** Interstitial monitoring must be used for double walled aboveground storage tank systems. The sampling or testing method must detect a release at least every thirty (30) days in accordance with the manufacturer instructions through the inner wall in any portion of the tank that routinely contains product.

(4) **Automatic tank gauging systems.**

(A) Automatic tank gauging systems (ATGs) that test for the loss of product must conduct an automatic product level monitor test at a minimum frequency of once every thirty (30) days and be capable of detecting at least a 0.2 gallon per hour leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(B) Automatic tank gauging systems (ATG's) must be third party certified for the size and quantity of the tank. Only third party certifications that have been reviewed and approved by the National Work Group on Leak Detection Evaluations (NWGLDE), as evidenced by their posting on the NWGLDE Web Site, will be accepted (nwglde.org).

**Annual line tightness testing conducted in lieu of 30-day visual monitoring must be performed by a licensed tester.**

#### **165:26-3-20.2. Installation and monitoring requirements for underground piping**

Underground piping that routinely contains regulated substances must be installed and monitored for releases in a manner that meets the following requirements:

##### **(1) Pressurized piping**

(A) Piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector installed and operated in accordance with this Chapter.

(B) New installations and facilities replacing a piping system must have at least one (1) sump sensor, float or similar mechanical device for each tank system, located at the bottom of the lowest piping gradient sump. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs. Sensors must be mounted at the bottom of the sump(s) and accessible for testing.

(C) Underground pressure piping from a master dispenser to a satellite dispenser must be designed and installed so that the satellite piping is tested by the automatic line leak detector. An annual line tightness test is required on the satellite underground piping.

(2) **Suction piping.** New installations and facilities replacing a piping system must have at least one (1) sump sensor, float or similar mechanical device for each tank system, located at the bottom of the lowest piping gradient sump. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs. Sensors must be mounted at the bottom of the sump(s) and accessible for testing.

(3) **Methods of release detection for pressurized piping.** Each method of release detection for underground pressurized piping must be performed in accordance with the following requirements:

- (A) Automatic mechanical line leak detectors and annual line tightness testing
  - (i) Methods which alert the owner and/or operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or by triggering an audible or visual alarm may be used only if they detect leaks of three (3) gallons per hour at ten (10) psi line pressure within one (1) hour.
  - (ii) An annual test of the operation of the leak detector must be conducted by simulating a leak in accordance with the manufacturer's requirements.
  - (iii) Automatic line leak detectors installed on or after September 22, 1991 must be capable of detecting the leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05.
  - (iv) A hydrostatic line tightness test must be performed annually by a ~~certified~~-licensed tester.

- (B) Sump sensors with automatic line leak detectors
  - (i) Double walled piping with sump sensors, floats or similar mechanical devices at each dispenser, transition and tank sump may be used in lieu of annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.
  - (ii) The sump sensors, floats or other mechanical devices used must be tested annually according to manufacturer's requirements. Sensors status and alarm history reports must be printed/manually recorded and retained for each thirty (30) day period.
  - (iii) An annual function test of the operation of the leak detector must be conducted by simulating a leak in accordance with the manufacturer's requirements.

(C) Electronic line leak detection. A certified electronic line leak detector may be used in lieu of a mechanical line leak detector and annual tightness test only if:

- (i) The system is capable of detecting and tests for a leak of three (3) gallons per hour before or after each operation of the submersible turbine pump; and
- (ii) The system is capable of detecting and tests for a leak of 0.2 gallons per hour at least once every thirty (30) days; and
- (iii) The system is capable of detecting and tests for a leak of 0.1 gallons per hour annually; and
- (iv) The system must be function tested annually by simulating a leak in accordance with manufacturer's specifications. If the system has printer capabilities, attach the electronic line leak detector printout documenting the system shutdown or alarm when tested.

**(4) Methods of release detection for suction piping.** Each method of release detection for underground suction piping must be performed in accordance with the following requirements.

- (A) Sump Sensors
  - (i) Double walled piping with sump sensors, floats or similar mechanical devices at each dispenser, transition and tank sump may be used in lieu of annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.
  - (ii) The sump sensors, floats or other mechanical devices used must be tested annually according to manufacturer's requirements. Sensors status

and alarm history reports must be printed/manually recorded and retained for each thirty (30) day period.

(B) Annual Line Tightness Testing. A hydrostatic line tightness test must be performed annually by a ~~certified~~ licensed tester.

**Line tightness testing must be performed by a licensed tester.**

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

### **PART 1. GENERAL APPLICATION AND COMPLIANCE PROVISIONS**

#### **165:26-8-2.1. Release detection requirements for marinas**

Monitoring requirements, at a minimum, must consist of an annual line tightness test conducted no later than April 1<sup>st</sup> of each year by a licensed tester.

**Tightness testing on piping at marinas must be performed by a licensed tester.**

## **SUBCHAPTER 12. REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS UTILIZED AT FLEET AND COMMERCIAL FACILITIES**

### **PART 1. GENERAL APPLICATION AND COMPLIANCE PROVISIONS**

#### **165:26-12-1. Application**

(a) This Subchapter applies to the storage, handling and use of ~~gasoline and diesel fuel~~ regulated substances at fleet and commercial facilities which are kept in aboveground storage tanks, with an individual capacity of 2,100 gallons or more. Aboveground storage tanks with an individual capacity of less than 2,100 gallons are not subject to PSTD regulation, and may not access the Indemnity Fund in the event of a release from such aboveground storage tanks. Although PSTD does not regulate aboveground storage tanks with an individual capacity of less than 2,100 gallons, owners of such tanks should be aware they may be subject to regulation by other jurisdictions.

(b) Subchapters 1 General Provisions, 2 General Requirements for AST's, 3 Release Prevention and Detection, and 4 Inspections, Penalties, and Field Citations shall also apply in addition to this Subchapter.

**Replacing regulatory text to incorporate all PSTD-regulated substances stored in ASTs at fleet and commercial facilities.**



**APPENDIX G. ~~FINE~~-FIELD CITATIONS TABLE**

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

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

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

<b>Rule</b>	<b>Violation</b>	<b>Fine Amount</b>
165:26-2-42	Failure to test cathodic protection system within 6 months installation or repair	\$250
<b>Release Investigation &amp; Confirmation</b>		
165:26-3-171	Failure to conduct tightness test(s) to investigate suspected leak(s)	\$250
165:26-3-171	Failure to investigate a spill or a spill resulting from overfill over 25 gallons	\$100
165:26-3-171	Failure to clean up a spill or a spill resulting from overfill over 25 gallons	\$500
<b>Temporary Closure</b>		
165:26-2-212	Failure to provide adequate release detection as required in a temporarily closed storage tank system	\$250
165:26-2-212(2)	Failure to properly vent a temporarily closed storage tank system as required	\$250
165:26-2-212(3)	Failure to secure all storage tank-related equipment for temporary closure.	\$250
<b>Permanent Closure</b>		
165:26-2-213	Failure to use a PSTD licensed AST Remover	<del>\$500</del> <u>\$5,000</u>
165:26-2-214	Failure to measure for the presence of a release before a permanent closure	\$500
165:26-2-214(d)	Failure to use a PSTD licensed Environmental Consultant	\$500
<b>Repairs</b>		
165:26-1-56	Failure to maintain repair records for operating life of storage tank	\$250
165:26-2-1.1 165:26-2-191	Failure to use a PSTD licensed AST Installer to install or repair <del>person to repair</del> <u>as required</u>	<del>\$500</del> <u>\$5,000</u>
	Second offense or thereafter by owner (per owner, not per facility)	\$1000
165:26-2-8	Failure to perform tightness test on tank system after installation or repair	\$300
<b>Other</b>		
165:15-7-1	Misrepresentation of octane level per location	\$500
	Second Offense within a year	\$1000
	Third Offense – Closure & Hearing	\$5000
165:26-1-31	Failure to follow standard codes for installation	\$500

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

**Correcting the name of the table so it matches the corresponding table in Chapter 25, updating regulatory text for CP testers, updating the amount of the fine that PSTD attorneys are currently recommending for failure to use a PSTD Licensed AST Remover for tank removal, and striking redundant language.**

**CHAPTER 27**  
**DRAFT PROPOSED RULES**  
**OCTOBER 23, 2023**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 165:27-1-2. Definitions

In addition to the terms defined in 17 O.S. Sections 303, and in Oklahoma Administrative Code (OAC) 165:25-1-11, 165:26-1-2, and 165:29-1-11 the following words or terms, when used in this Chapter, are the Commission's interpretation of enabling statutes and shall have the following meaning unless the context clearly indicates otherwise:

**"Actual physical damage"** means those damages to real and personal property directly related to corrective action performed on a release of petroleum from a Commission regulated storage tank system. Personal property damage is limited to the replacement value of the personal property less depreciation. Real property damage is limited to the lesser of the property value or diminution in property value directly associated with a release of regulated substances from a Commission regulated storage tank system. In no event will the Indemnity Fund reimburse speculative damages, inferred damages, unrealized damages or any other damages where damage costs are not actually incurred, paid, or otherwise established to the Commission's satisfaction. The burden of proof shall be upon the person seeking compensation from actual physical damages.

**"Allowable Costs"** means costs that are reasonable, integral and necessary to corrective action.

**"Associated costs"** means expenses that are not integral to the corrective action and not subject to reimbursement.

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

**"Claim"** or **"Claims"** means a properly submitted request for reimbursement from the Fund for an eligible suspicion of release ("SOR") or confirmed release case when the co-pay is paid.

**"Closed case"** means a petroleum release case for which final resolution has been made of all invoices submitted for corrective action taken under an application for reimbursement from the Indemnity Fund and the PSTD Technical Department deems no further corrective action is necessary.

**"Commission"** or **"OCC"** means the Oklahoma Corporation Commission.

**"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.

**"Disbursement"** includes all monies, actually paid, expended, encumbered, reserved or attributable to a reimbursable event(s).

**"Dispenser"** means equipment, gauge(s), hose(s), nozzle(s), immediately associated pipe or fittings and other such appurtenances located aboveground and intended for dispensing PSTD-regulated substances from a tank system.

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

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

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

**"Medical injury(ies)"** means actual physical injury to a person in which medical costs have been incurred in association with the diagnosis and treatment of a physical injury directly caused

by corrective action performed on a release of petroleum from a Commission regulated storage tank system.

**"Modified eligibility"** means the eligibility process for a suspicion of release ("SOR") case in which substantial compliance review is not required and the Indemnity Fund co-payment is paid upon closure of the SOR case. In the event the SOR case becomes a confirmed release case, a substantial compliance review is required and the statutory co-payment must be remitted within 30 days of the invoice date.

**"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 the PSTD regulated substance occurred in two (2) different tank system locations, are separated by time, or both.

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

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

**"Petroleum storage tank system"** means a closed-plumbed system including storage tank(s), line(s) and dispenser(s) for a given product, e.g. a facility site can have a gasoline and a diesel system, or systems for different grades of gasoline, or even separate systems for the same grade of gasoline. It also includes a delivery truck when attached to a tank system, and a used oil tank.

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

**"Purchase Order"** means a document submitted to PSTD online to obtain pre-approval by PSTD of a scope of work and the costs associated with the scope of work.

~~**"Realeitrant 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.~~

**"Reimbursement"** means repayment of an approved claim to a qualified Claimant or Assignee, or for an Administrative Application, or payment of an approved claim submitted on behalf of a qualified Claimant for incurred allowable costs resulting from an eligible release.

**"Remedial Action Plan"** means a plan implementing the required and approved remediation.

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

**"Work Plan"** means a proposed scope of work submitted online to implement corrective action.

**Striking the definition for terminology not used in these rules.**

## SUBCHAPTER 9. ADMINISTRATIVE PROVISIONS

### 165:27-9-3. Notices

~~Any notices and documents required to be submitted to the Fund or PSTD shall be delivered or mailed to:~~ The principal office and mailing address of the Indemnity Fund or the Petroleum Storage Tank Division will be posted on the Commission's website.

~~(1) Indemnity Fund mailing address: Administrator, Petroleum Storage Tank Indemnity Fund, P.O. Box 52000, Oklahoma City, Oklahoma 73152-2000.~~

~~(2) PSTD mailing address: Director, Petroleum Storage Tank Division, P.O. Box 52000, Oklahoma City, Oklahoma 73152-2000.~~

~~(3) Delivery address for Indemnity Fund and PSTD: Jim Thorpe Building, 2101 N. Lincoln Blvd., Room 480, Oklahoma City, Oklahoma 73105 (405) 521-4683.~~

**Changed to match Chapter 5 (RM2023000003).**



**CHAPTER 29**  
**DRAFT PROPOSED RULES**  
**OCTOBER 23, 2023**

## SUBCHAPTER 1. GENERAL PROVISIONS

### Part 1. PURPOSE AND STATUTORY AUTHORITY

#### 165:29-1-2. Contents

This Chapter sets forth specific requirements for corrective action of releases including the investigation, site assessment, ~~cleanup~~remediate, public notice, and monitoring of systems.

**Revising technical terminology for clarification.**

## SUBCHAPTER 3. RELEASE PREVENTION, DETECTION AND CORRECTION

### Part 1. Release Prohibition, Reporting, and Investigation

#### 165:29-3-3. Release investigation; confirmed release; suspected release; emergency suspected release and release reporting

(a) **Duty to inspect for release.** Owners and operators of storage tanks must routinely inspect and conduct necessary testing of their storage tanks to prevent spilling, overfilling, or leaking from a storage tank system into the native environment. The owner or operator of a petroleum storage tank system must take the following steps or use other procedures approved by PSTD:

(1) **System test.** Owners or operators must conduct petroleum storage tank system tightness tests and, if applicable containment testing, that will determine whether a release exists in the portion of the tank that routinely contains regulated substances and the attached delivery piping or a breach of either wall of the secondary containment has occurred. If the test results for the system, tank, delivery piping, or interstice indicate that a leak exists, the owner or operator must repair, remove, replace, or permanently closed as defined in OAC 165:25-2-135 the petroleum storage tank system, delivery piping, or interstice and begin a site check. Further investigation is not required if the test results for the system, tank, delivery piping, and interstice do not indicate that a leak exists and if indicator chemical concentrations detected in soil or water are not the basis for suspecting a release. However, the owner or operator must conduct a site check as described in (B) below if the test results for the system, tank, delivery piping and interstice do not indicate that a release exists, but indicator chemical concentrations detected in soil or water are above action levels cited in (b) of this Section.

(2) **Site check.** The owner or operator must measure for the presence of a release where released regulated substances are most likely to be present at the petroleum storage tank system site. In selecting sample types, locations, depths and measurement methods, owners or operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of native soil, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Sample locations should be approximately five feet (5') from the outside of the petroleum storage tank system in native soil or another location approved by the PSTD. Analyses for both BTEX constituents and the appropriate TPH must be obtained in all cases. For sites where used oil may be involved, as determined through a TPH analysis, TCLP analysis for metals, semi-volatiles, and volatiles may be required. The TCLP results will be used on a case-by-case basis to establish ~~cleanup~~risk levels or to refer the case to the DEQ-ODEQ for regulation. The selected method must be able to detect the most stringent ~~cleanup~~risk levels required in this Chapter. The Total

Petroleum Hydrocarbon (TPH) Laboratory Methodology 418.1 will not be accepted for this Chapter.

(A) If the test results for soil and/or groundwater taken outside the excavation zone or the petroleum storage tank system site confirm that a release has occurred, the owner or operator must begin the required corrective action in accordance with this Subchapter.

(B) If the test results for the native soil and/or groundwater or the petroleum storage tank system site do not indicate that a release has occurred, further investigation is not required.

**(b) Confirmed release.**

(1) When one or more of the following is present from a petroleum storage tank system, a release may be considered confirmed and a confirmed release case may be activated by PSTD staff.

(A) Free product.

(B) Contaminated groundwater and/or soil that exceed OCC action levels.

(C) Organic vapor readings above background levels.

(D) Actionable levels of petroleum staining or odors.

(E) Any other indication that a release from a regulated petroleum storage tank system has occurred that is harmful to human health, safety or the environment.

(2) Laboratory analysis of levels of chemical constituent concentrations that may be required to confirm a case are:

(A) Benzene

(i) Native Soils - 0.5 mg/kg

(ii) Groundwater - 0.005 mg/l

(B) Toluene

(i) Native Soils - 40.0 mg/kg

(ii) Groundwater - 1.0 mg/l

(C) Ethyl Benzene

(i) Native Soils - 15.0 mg/kg

(ii) Groundwater - 0.7 mg/l

(D) Xylene

(i) Native Soils - 200.0 mg/kg

(ii) Groundwater - 10.0 mg/l

(E) TPH

(i) Native Soils - 50.0 mg/kg

(ii) Groundwater - 2.0 mg/l

(iii) If BTEX concentrations are below action levels, a TPH concentration of 500 mg/kg in soil may be required to confirm a case at the discretion of PSTD.

**(c) Suspected release.** When an owner, operator, or their agent has reason to believe that a release from a storage tank may have occurred, he or she must notify PSTD within twenty-four (24) hours and receive authorization from the Division prior to initiating any investigation for which subsequent payment from the Indemnity Fund may be sought.

**(d) Emergency suspected release.** Owners, operators, or their agent may begin investigation of suspected releases when the suspected release may cause immediate harm to the public health, safety, welfare or the environment. The Petroleum Storage Tank Division will approve and reimburse expenses for an investigation after it has been performed and prior to the issuance of a Suspicion of Release by the Petroleum Storage Tank Division when the owner or operator has reasonably acted upon the belief that the suspected release gave rise to the need for immediate

emergency action. The determination of whether or not action was reasonable is within the discretion of PSTD.

(e) **Release reporting.** Within twenty (20) days after the reporting of a release, the owner or operator must submit a report to PSTD summarizing the steps taken under this Section and any resulting information. If a release is confirmed through performance of the steps taken under this Section, then the report must be submitted in a format established by PSTD within the required timeframe, after which corrective action may be required under the provisions of this Chapter.

**Clarifies that risk-based decision-making is used in the corrective action program.**

### **Part 3. Removal and Closure of Petroleum Storage Tank Systems**

#### **165:29-3-65. Assessing backfill material at closure or change in service**

(a) As directed by PSTD, backfill material that is removed when an underground storage tank or associated piping is removed from the subsurface may be tested for BTEX, TPH (GRO and/or DRO, whichever is appropriate) and total lead, if appropriate.

(b) As directed by PSTD excavated backfill material may be sampled at a rate of one composite sample (composed of 10 grab samples) per 50 cubic yards of material, which must be analyzed by a laboratory certified by DEQ that has current ODEQ accreditations for the matrix, method, and analyte of the specific analysis being performed unless prior approval is obtained from PSTD.

(c) The consultant or tankowner may put excavated backfill back into the tankpit while waiting for sampling results, but if the backfill needs to be re-excavated and replaced with clean backfill, the re-excavation is not a reimbursable expense.

(d) After reviewing analytical results, PSTD will determine if concentrations of Chemicals of Concern are at levels that pose a threat to human health, safety and/or the environment, and should be removed. This decision will be based upon analytical levels and specific site conditions such as, but not limited to, lithology of the tankpit walls and surrounding native soils, gradient and direction of groundwater flow, and potential receptor exposure to Chemicals of Concern.

(e) Contaminated backfill and tankpit water that poses a threat to human health and/or the environment as determined by PSTD must be removed from the site to a proper disposal site and replaced by clean backfill, or may be remediated above grade to concentrations below action levels or ORBCA-related cleanup-risk levels.

(f) Expenses incurred in the removal and disposal (but not re-excavation, see (c) above) of contaminated backfill and tankpit water may be reimbursable by the Fund only with written or documented verbal pre-approval (i.e., confirmed by email) from PSTD Technical staff. Reimbursement of eligible backfill disposal costs can only be paid when associated with an active, confirmed release case.

(g) Reimbursable backfill expenses identified in Section (f) above do not apply to new tank installations. If existing tanks are removed and replaced with new tanks, in order to ensure the efficacy of the cathodic protection, old backfill must be removed and new backfill must be placed in the tankpit. If the backfill is contaminated to the degree that it must be taken to a landfill, backfill removal and disposal costs are not reimbursable expenses.

(h) No soil, backfill material, or groundwater is to be removed from the site without prior PSTD approval and proper laboratory characterization unless otherwise directed by PSTD.

**Revisions better match the technical terminology for analyzing samples found in the ODEQ regulations (OAC 252, Chapter 301).**

## Part 5. CORRECTIVE ACTION REQUIREMENTS

### 165:29-3-73. Initial response

Upon confirmation of a release or after a release from a petroleum storage tank system is identified in any other manner, the owner or operator must perform the following initial response actions within 24 hours of a release:

- (1) Report the release to the PSTD either by telephone, ~~or~~ electronic mail.
- (2) Take and document immediate action to prevent any further release of the regulated substance into the environment.
- (3) Identify any fire, explosion, and vapor hazards and mitigate them immediately.

### Grammatical correction.

### 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 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-risk~~ 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 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.

**Clarifies that risk-based decision-making is used in the Tier 1 process.**

### **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 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 email of PSTD staff, begin ~~cleanup~~ corrective actions 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~~ corrective actions at least seven (7) days prior to initiating any ~~cleanup~~ fieldwork action, unless it is an emergency.
  - (2) Comply with any conditions imposed by PSTD, including halting ~~cleanup~~ corrective actions or mitigating adverse consequences from ~~cleanup~~ remediation activities.
  - (3) Incorporate these self-initiated ~~cleanup~~ corrective action measures in the Remedial Action Plan or closure by risk assessment that is submitted to PSTD for approval.

**Clarifies technical terminology and risk-based decision-making is used in PST's corrective action program.**

**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~~ risk 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 of an approved Remedial Action Plan that does not achieve the ~~cleanup~~risk levels established in the plan, and
  - (2) when termination of the plan is subsequently approved by the PSTD.

**Clarifies risk-based decision-making process is used in PST's corrective action program.**

#### **165:29-3-82. Closure of a case**

- (a) Closure occurs when PSTD has determined that the appropriate ~~cleanup~~risk levels have been achieved for both BTEX and TPH and monitored as remaining below the ~~cleanup~~risk level for a period of time as directed by PSTD, or when PSTD has determined the case is eligible for closure under Risk-Based Corrective Action.
- (b) Upon approval of the request for case closure or as directed by PSTD, the owner or operator must submit a final closure report on a form specified by PSTD and certified by the Licensed Environmental Consultant which provides evidence of proper decommissioning of equipment and corrective action materials.
- (c) All residual waste soil and/or fluid drums generated during case closure activities, or that remain on-site from prior case investigation activities, must be disposed of as part of case closure work and evidence of disposal of such drums documented in the final closure report. The final closure report will not be approved until all residual wastes have been disposed of.

**Clarifies risk-based decision-making is used in PST's corrective action program.**

#### **165:29-3-83. Laboratory analysis**

- (a) All samples required to be collected and analyzed pursuant to this Chapter must be analyzed by a ~~DEQ-certified~~ laboratory that has current ODEQ accreditations for the matrix, method, and analyte of the specific analysis being performed unless prior approval is obtained by PSTD.
- (b) The Total Petroleum Hydrocarbon (TPH) Lab Methodology EPA 418.1 will not be accepted for Part 5 of this Subchapter.



(c) When air sampling is required inside any structure or vapor monitoring well, the sampling and the method(s) used must be pre-approved in writing by PSTD.

**Correcting language for analyzing samples to closer match ODEQ regulations in OAC 252, Chapter 301.**

## **PART 7. LICENSING PROCEDURES FOR ENVIRONMENTAL CONSULTANTS**

### **165:29-3-90. Licensing for Environmental Consultants involved with closures and/or corrective action of releases from underground or aboveground storage tanks**

(a) Any individual seeking a license as an Environmental Consultant involved with closures, and/or corrective action of releases from either underground or aboveground storage tank sites must complete an application form prepared by PSTD. The application form requires information regarding education, experience, knowledge of applicable state and federal regulations, industry standards and practices and references.

(b) All applicants must qualify in the following manner:

(1) Satisfy requirements of the Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120 (HAZWOPER) forty (40) hour course with eight (8) hour annual updates and the eight (8) hour supervisor course; must provide evidence of the successful completion of a PSTD approved Risk-Based Corrective Action course, seminar or school. At a minimum this course must include sixteen (16) hours of risk assessment/risk analysis and fate and transport of chemicals in the environment; eight (8) hours of which must be hands-on computer training with appropriate software; and

(2) Have seven (7) years' environmental experience with at least two (2) years' of corrective action experience at regulated petroleum storage tank facilities and pass an examination, which must be taken no more frequently than once every six (6) months, authorized by the State of Oklahoma, which demonstrates knowledge of reference materials published by EPA:NWWA (Technical Enforcement Guidance Document-TEGD) and all applicable federal, state, and local regulations; or

(3) Have a four (4) year degree from an accredited college or university recognized by the state in Geology, Hydrology, Environmental Science, Environmental Engineering, Petroleum Engineering, Civil Engineering, Geologic Engineering or an equivalent engineering degree and at least four (4) or more years of environmental experience with at least two (2) years' experience at regulated petroleum storage tank facilities, and pass an examination approved by the PSTD. The examination will test an applicant's knowledge of industry standards, reference materials, laws and regulations, and may be taken no more frequently than once every six (6) months.

(c) Licensed Environmental Consultants are required to pay fees for applications, examinations, and certifications prior to examination and license issuance as set forth in OAC 165:5.

(d) Licensed Environmental Consultants must provide proof of attending (online or in-class) eight (8) hours of PSTD approved continuing professional education courses, classes, seminars or conferences to PSTD every year. Licensees may request to rollover a maximum of eight (8) credit hours from the current year to satisfy the following year's continuing education requirements. Approval of any rollover hours will be at the discretion of PSTD after evaluating the class, conference, course, or seminar. Licensees must also provide proof of attending eight (8) hours of HAZWOPER Refresher class updates every year.

(e) Sampling, sampling at tank closures, investigations, and remediation or any other activities directed by PSTD must be under the supervision of a Licensed Environmental Consultant. All work requiring supervision by Licensed Environmental Consultants must contain a verification statement signed by the consultant in supervisory control.

(f) Licensed Environmental Consultants must supervise and/or perform work only in the areas in which they are educated and/or experienced.

**(b)(2)-Clarifying environmental experience needed for licensing and making a grammatical correction.**