

TITLE 165. CORPORATION COMMISSION
CHAPTER 26. ABOVEGROUND STORAGE TANKS

PROPOSED RULES

October 1, 2018

**Changes made after
September 24, 2018**

**STAC meeting
highlighted**

This is not the official version of the Oklahoma Administrative Code, however, the text of these rules is the same as the text on file in the Office of Administrative Rules. Official rules are available from the Office of Administrative Rules of the Oklahoma Secretary of State. This copy is provided as convenience for our customers

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[**Authority:** OKLA. CONST. art IX, §§ 18, 19; 17 O.S., §§ 301 et seq.; 27A §§ 1-1-201 and 301 et seq.]

[**Source:** Codified 7-13-93]

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. PURPOSE AND DEFINITIONS

165:26-1-2. Definitions

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

"Aboveground storage tank" or **"AST"** means any stationary tank and individual compartments not included within the definition of a petroleum storage tank in OAC 165:25-1-11, which is designed to contain PSTD regulated substances without structural support of earthen material.

"Aboveground storage tank system" means an aboveground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers and associated equipment and fixtures or transport truck 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); change of regulated substance that a storage tank contains.

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

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

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

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

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

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

"EPA" means the United States Environmental Protection Agency.

"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 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Fund" means the Petroleum Storage Tank Indemnity Fund.

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

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

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

"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 Regulation 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:

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

(B) In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of its service/use. A 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 telecommunications services for public use.

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

"Regulated substances" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel. It does not include compressed natural gas, liquid natural gas and 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 the 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.

Further defines aboveground storage tank; defines "corrosion expert"; defines "formal enforcement action" and "important building" (from NFPA 30-3.3.8.1).

PART 3. SCOPE OF RULES

165:26-1-21. Overview of applicability

This Chapter will apply to owners, operators, their employees and agents of aboveground storage tanks which PSTD is authorized to regulate pursuant to 27A O.S. (Supp. 1999) § 1-3-101 (E) (5) (b) and 17 O.S. § 301 et seq., which gives PSTD the responsibility of regulating aboveground storage tanks that contain regulated substances, including but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, or the transport truck attached to it, whether above the ground or below, ~~excluding tanks at refineries or at the upstream or intermediate shipment points of pipeline operations, and excluding compressed natural gas whether used as a motor fuel or not.~~ PSTD references the National Fire Protection Association 30 and 30A, Standard Number 30, ~~2015~~ 2018, "Flammable and Combustible Liquids Code" and Standard Number 30A, ~~2015~~ 2018, "Automotive and Marine Service Station Code". New editions of NFPA 30 and NFPA 30A supersede all previous editions.

Adds the transport truck being part of the tank system when connected to tank; strike exclusion language; updates standards to current edition.

165:26-1-22. Exclusions

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

(1) All tanks used in the exploration or production of oil and gas, including well service equipment and natural gas compression equipment. ~~These activities are regulated by the Commission's Oil and Gas Conservation Division.~~

(2) All mobile or temporary tanks used at construction sites.

(3) All farm and ranch tanks.

(4) All tanks used by public utilities in the generation of electric power for public use.

(5) All tanks used by manufacturers in the production of goods.

(6) Emergency generator tanks.

(7) All tanks that contain motor oil, used motor oil or antifreeze located at retail automobile lubrication facilities or automotive service centers.

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

Strike redundant language; ASTs containing motor oil or antifreeze at retail lube centers to excluded class of tanks.

PART 4. ADMINISTRATIVE PROVISIONS

165:26-1-28. Variances

A variance to any provision of this Chapter may be granted by the Commission after application, notice and hearing and administrative review by staff. ~~If the application for variance is approved, no further action by applicant is necessary. If the application is denied, staff will notify applicant to proceed with notice and hearing.~~ A variance is effective on the date of order issuance. Instructions on the variance process can be found at OAC 165:5-21-3.1.

Clarifies the effective date of a variance and the rule citation for the application process.

165:26-1-30.2. Consultation of Petroleum Storage Tank Division [REVOKED]

At a tank owner's request, PSTD will confer with a tank owner planning a new installation or a reconfiguration of an existing installation to assure the tank owner of compliance.

Revokes an outdated rule.

PART 5. STANDARDS AND CODES

165:26-1-31. ¹Codes 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-~~2014~~[2016](#), "Process Piping."
 - (B) ASME B31.4-~~2012~~[2016](#), "Pipeline Transportation Systems for Liquids and Slurries."
 - (2) American Petroleum Institute (API) Standards:
 - (A) API RP 652, "Lining of Aboveground Petroleum Storage Tank Bottoms," Second Edition, April, 2014.
 - (B) API 1628 SET, "A Guide to the Assessment and Remediation of Underground Petroleum Releases."
 - (C) API 653, "Tank Inspection, Repair, Alteration, and Reconstruction, ~~Fifth Edition, 2014~~ [2018](#)."
 - (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, ~~2015~~ [2018](#), "Flammable and Combustible Liquids Code."
 - (B) Standard Number 30A, ~~2015~~ [2018](#), "Motor Fuel Dispensing Facilities and Repair Garages."
 - (6) Underwriter's Laboratory (UL) Standards:
 - (A) Standard UL142, 2006, "Steel Aboveground Tanks for Flammable and Combustible Liquids."
 - (B) Standard UL842, 2015, "Valves for Flammable Fluids."
 - (C) Standard UL971, 2011, "Nonmetallic Underground Piping for Flammable Liquids."
 - (7) Petroleum Equipment Institute: Publication PEI/RP 200-13, "Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling." (2013 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 42nd 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 to current edition.

PART 6. FINANCIAL RESPONSIBILITY

165:26-1-36. Financial responsibility

(a) This Subchapter applies to owners and operators of all petroleum aboveground storage tank (AST) systems except as otherwise provided in this Section.

(b) ~~State and~~ Federal government entities whose debts and liabilities are the debts and liabilities of ~~a state or~~ the United States are exempt from the requirements of this Subchapter.

(c) The requirements of this Subchapter do not apply to owners and operators of any AST system described in 165:26-1-22, "Exclusions."

(d) If the owner and operator of a petroleum aboveground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance.

(e) An owner or operator may satisfy the requirements of this Subchapter by use of the Petroleum Storage Tank Indemnity Fund (ref: Okla. Stat. Title 17 §327.3). There is a co-pay for use of this mechanism. ~~and for which compliance may be demonstrated~~ Compliance may also be satisfied by use of any of the mechanisms listed in 165:26-1-37. ~~For releases that occurred before June 4, 2004 the co pay is \$5,000; for releases that occurred after June 4, 2004 the co pay is 1% of fund expenditures not to exceed \$5,000.~~

Correct the name of the Indemnity Fund and statute number; correct grammar; strike outdated language.

PART 7. NOTIFICATION AND REPORTING REQUIREMENTS

165:26-1-41. General reporting requirements

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

Division and link to PST Compliance Forms. Failure to submit PSTD paperwork in the format established by PSTD within the timeframe required may result in enforcement action.

Require a registration form be submitted to PSTD within 30 days when the status of the tank changes.

165:26-1-42. New tank systems

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

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

(c) Owners and AST Licensees must certify on the PSTD Registration form that the installation of tanks and piping meet the requirements of this Chapter.

Clarifies permanent removal as well as replacement require 14 day notification.

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 ~~the owner's representative (as directed by the owner)~~ Commission licensee hired by the owner 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

Clarification.

PART 13. SHUTDOWN OF OPERATIONS

165:26-1-90. Shutdown of operations

(a) PSTD may close (shut down) a system:

- (1) If the system poses an imminent threat to health, safety, or the environment.
- (2) If the owner or operator is operating tanks for which permit fees have not been paid.
- ~~(3) If the owner or operator fails to comply with a Commission requirement or order.~~
- ~~(4) For failure to properly install, operate and/or maintain leak detection, spill, overfill, or corrosion equipment if the owner/operator has been issued a written Notice of Violation ("NOV") and has failed to correct the problem.~~
- ~~(5) Failure to protect a buried metal flexible connector from corrosion if the owner/operator has been issued a written Notice of Violation ("NOV") and has failed to correct the problem.~~
- ~~(6)~~(3) Failure to perform, maintain, have readily available or present records for the previous twelve (12) ~~months~~ thirty (30) day periods.
- ~~(7)~~(4) Tampering with equipment.

(b) PSTD must close (shut down) a system:

- (1) If required spill prevention equipment is not installed.
- (2) If required overfill protection equipment is not installed.
- (3) If required leak detection equipment is not installed.
- (4) If required corrosion equipment is not installed.
- (5) If two inches (2") or more of water is found in the tank where conventional gasoline or diesel fuel is stored and if one-half inch (1/2") or more of water is found in the tank of gasoline blended with alcohols, E85 fuel ethanol, or diesel blended with biodiesel.
- (6) If meter is found to be off in calibration by more than minus fifteen (-15) cubic inches per every five (5) gallons.
- (7) If a Fuel Specialist issues a Notice of Violation ("NOV") and the violation(s) is not corrected.
- (8) If the owner or operator fails to comply with a Commission requirement or order.
- (9) Failure to properly install, operate and/or maintain leak detection, spill, overfill, or corrosion equipment if the owner/operator has been issued a written Notice of Violation and has failed to correct the problem.
- (10) Failure to protect a buried metal flexible connector from corrosion if the owner/operator has been issued a written Notice of Violation and has failed to correct the problem.

(c) Only PSTD designated employees have the authority to lock or seal dispensers and/or fill pipes of any system violating subsection (a) or (b) of this Section. The PSTD employee must explain in writing to the owner or operator the reason the AST system is being locked or sealed.

(d) The PSTD "Out of Order" tag attached to each fill pipe of the tank(s) in violation shall serve to clearly identify the tank(s) as ineligible for delivery, deposit, or acceptance of product. Tank owners/operators and product deliverers are responsible for ensuring that product is not delivered into the tagged tank(s).

(e) ~~Owners, operators, or any persons~~ Any person who ~~remove~~ removes a lock or seal without permission from PSTD will be subject to penalties imposed by this Chapter, or formal enforcement proceedings.

(f) Upon confirmation that the AST system no longer poses an imminent threat to health, safety, or the environment, the owner or operator of the facility is in compliance with PSTD rules,

permit fees paid, violation(s) corrected, or Commission order requirements satisfied, the authority to remove a lock or seal by the owner or operator may be obtained as follows:

- (1) Written permission from the PSTD employee who placed the lock or seal on the device; coupled with written confirmation to PSTD by the person removing the lock or seal; or
- (2) Verbal or written permission from the Director or Director's designee; or
- (3) Application to and order of the Commission.

(g) If a facility is closed under the provisions of this Section, the owner or operator of the facility will be afforded a hearing within ten (10) days of receipt by PSTD of the owner's or operator's application for a hearing.

More egregious violations warrant shutdown of system; clarifies required release detection records, clarifies the owner will receive written explanation for tank system shutdown; anyone who removes a lock or seal is subject to enforcement; owner must be in compliance with rules before removing a lock or seal.

PART 15. LICENSING PROCEDURES

165:26-1-110. Licensing procedure for aboveground storage tank licensee

- (a) Any individual who would like to become an aboveground storage tank licensee must:
- (1) Complete an application form.
 - (2) Provide sufficient proof of two (2) years' related work experience, and of active participation in the completion of three (3) aboveground storage tank handling activities, two (2) of which must be installations.
 - (3) Pass an examination approved by PSTD.
 - (4) Pay fees for applications, examinations, and licensing prior to examination and license issuance as set forth in Chapter 5 of Commission rules.
 - (5) Certify that they will comply with all PSTD rules and requirements for aboveground storage tanks, applicable Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) standards.
- (b) All examinations and licensing procedures must be completed within one (1) year of approval of the application. Failure to complete will result in forfeiture of fees and will require a new application and appropriate fees.
- (c) Continuing education is required to maintain an AST license; this consists of four (4) hours of continuing education through a Commission approved program every year. Licensees may request to rollover a maximum of four (4) 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, course, or seminar.
- (d) Any person who holds an AST license may install or remove AST systems.

Requires AST Licensees certify compliance with applicable OSHA HAZWOPER standards.

165:26-1-111. Licensee disciplinary procedure

(a) A license issued by PSTD is a designation of competence to the public in the area of licensee expertise. PSTD may use the following formula of progressive discipline for PSTD licensees:

(1) Private reprimand. The Manager of the appropriate department will call offending licensee to their office for a private discussion addressing the recent infraction and place a memo in the licensee's file documenting the discussion and nature of the offense.

(2) Public reprimand. The Manager of the appropriate department will prepare a letter of reprimand to the licensee, addressing deficiency issue. The letter of reprimand will provide the licensee an opportunity to formally dispute alleged deficiency(ies). The reprimand letter, licensee's response, all recourse actions following licensee rebuttal, if any, and the Manager's final decision(s) will be placed in the licensee's file and maintained by PSTD.

(3) License suspension, revocation, refusal to issue or renew a license and/or fines. Prior to any license suspension, revocation, or refusal to renew, the Director of PSTD will have the matter investigated and a report prepared for his or her consideration. If the Director elects to pursue suspension, revocation, or refusal to renew, the licensee will be officially notified by the Director by Notice sent to the licensee by certified mail/return receipt requested. The Notice will state the date and time of the hearing scheduled before a Commission Administrative Law Judge. The burden or proof of clear and convincing evidence of violations as well as adherence to applicable State law, rules or requirements rests upon PSTD.

Add PSTD's current discipline policy for licensees to the rules.

165:26-1-113. License penalties

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

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

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

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

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

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

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

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

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

(9) Failure to comply with this Chapter, Chapters 25, 27, 29, the Oklahoma Petroleum Storage Tank Regulation Consolidation Act (17 O.S. § 301 et seq.), and ~~the Oklahoma Petroleum Storage Tank Release Indemnity Program~~ will result in PSTD seeking a suspension and/or revocation of the license.

(10) Disciplinary action levels against PSTD licensees ~~including~~ **include but are not limited** to private reprimand, public reprimand, license suspension, license revocation and refusal to renew.

(b) Prior to any license suspension, revocation, or refusal to renew, the Director of PSTD shall have the matter investigated and a report made to the Director for consideration. If the Director elects to pursue suspension, revocation, or refusal to renew, PSTD will schedule a hearing before an Administrative Law Judge and the licensee will be officially notified. ~~The burden of substantial evidence rests upon PSTD.~~

~~(c) This Section in no way exempts the licensee from having to meet other applicable requirements as set by state and federal statutes and regulations from other state and federal agencies.~~

~~(d)~~(c) Any licensee in violation of ~~state law~~, enabling statutes, PSTD rules, **requirements** and/or Commission orders may be subject to **license suspension, revocation and/or** fines assessed by the Commission after notice and hearing.

Updates the name of the Petroleum Storage Tank Consolidation Act; strikes redundant language; adds PSTD requirements to violations subject to disciplinary action and/or fines.

SUBCHAPTER 2. GENERAL REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS

PART 1. DESIGN AND INSTALLATION

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

(a) The following distances, at a minimum, must be kept around aboveground storage tanks.

(1) 50 ft (15 meters) from the nearest important building ~~on the same property~~ **as defined by this Chapter**;

(2) 50 ft (15 meters) from any fuel dispenser;

(3) 50 ft (15 meters) from the nearest side of a public way; and

(4) **100 ft (30 meters) from any property line that is or might be built upon, including the opposite side of a public way.**

(b) The distances as set forth in (a) of this may be reduced by 50 percent if the tanks are fire-resistant. The distances as set forth in (a) may be further reduced if the tanks are a fire-protected type aboveground tank or tanks in vaults as per NFPA 30A-4.3.2.4.

(c) A variance may be granted for pre-existing facilities where compliance would be difficult and expensive and the current distances between tanks, property lines or dispensers pose no serious threat to people or property.

Clarification.

165:26-2-5.1. General spill and overflow prevention requirements

- (a) Owners and operators of aboveground storage tank systems, their employees or agents, as well as those who transport regulated substances to these systems must do everything reasonably possible to ensure that releases due to spilling and overfilling do not occur.
- (b) Tanks with a fill pipe must be filled through a liquid tight connection mounted inside at least a five (5) gallon spill container. ~~A spill bucket is not required if the fill pipe is located within the containment dike.~~ Where an aboveground tank is filled by means of fixed piping, either a check valve and shutoff valve with a quick-connect coupling or a check valve with a dry-break coupling shall be installed in the piping at a point where connection and disconnection is made inside the spill containment between the tank and the delivery vehicle. This device shall be protected from tampering and physical damage. Tampering with equipment is ~~not permitted~~ **prohibited**. Any violation of this section may result in ~~files~~ **fines**, enforcement action and/or shutdown of operations.
- (c) For existing aboveground storage tank systems installed after July 1, 2007 any one of the following methods must be used to prevent overfilling.
- (1) High liquid level alarms with an audible or visual signal that alerts personnel when the tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.
 - (2) High liquid level pump cutoff devices set to stop flow at a predetermined container content level.
 - (3) Direct audible or code signal communication between the ~~container~~ **tank** gauger and the pumping station.
 - (4) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used a second person must be present to monitor gauges and the overall filling of the tank.
- (d) For installations after October 13, 2018, a fill valve which automatically stops delivery of liquid when the tank reaches ninety-five percent (95%) capacity in addition to one of the following methods must be used to prevent overfilling.
- (1) High liquid level alarms with an audible or visual signal that alerts personnel when tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.
 - (2) Direct audible or code signal communication between the ~~container~~ **tank** gauger and the pumping station.
 - (3) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used, a second person must be present to monitor gauges and the overall filling of the tank.
- (e) Liquid level sensing devices must be tested at least annually to ensure proper operation.
- (f) Means shall be provided for determining the liquid level in each tank and this means shall be accessible to the delivery operator. Tank filling shall not begin until the delivery operator has determined that the tank has sufficient available capacity (ullage).

Strikes repetitive language; corrects grammar; replaces outdated language.

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) 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 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.
- (2) Every sixty (60) days impressed current cathodic protection systems must be inspected by the owner or operator (or ~~owners~~ owner's designated representative) to ensure that the equipment is working properly.
- (3) The criteria used to determine that cathodic protection is adequate must be consistent with a code of practice developed by a nationally recognized organization, such as the National Association of Corrosion Engineers (NACE).
- (4) All personnel performing cathodic protection system testing must have the required education, corrosion certification experience, knowledge and competence to correctly perform testing services in accordance with a certified course and applicable industry standards or codes.

Grammatical corrections; require certification from a recognized program (e.g., NACE, STI, etc.) for CP testers.

PART 5. PIPING

165:26-2-53. Valves on piping

- (a) If a submersible pump system is used, a UL listed emergency shutoff/shear valve must be installed at each dispensing device. Both the emergency shutoff/shear valve and dispensing device shall be rigidly anchored in place.
- (b) If a suction pump-type dispensing device with an air eliminator is used, and where the height of liquid in the tank may exceed the height of the suction pump, a UL listed, vacuum-actuated shutoff/shear valve or equivalent-type valve must be installed directly under each dispensing device. Both the shut off/shear valve and dispensing device shall be rigidly anchored in place. Tanks installed in below-grade vaults are not required to comply with this requirement.
- (c) Manual shutoff and check valves must be equipped with a pressure-relieving device that will relieve the pressure generated by thermal expansion back to the tank. Manual shutoff valves that are normally open and only closed for maintenance do not require a pressure relieving device.
- (d) Each connection to an aboveground tank through which liquid ~~can~~ normally ~~flow~~ flows must be provided with an internal or an external emergency fire valve located as close as practical to the shell of the tank or submerged pump. The fill line may be equipped with a check valve made of steel or nodular iron rather than a fire valve. The steel check valve must be installed ~~upstream~~ downstream of the block valve on fill lines if a fire valve is not installed.
- (e) An anti-siphon or solenoid valve must be installed on each supply line according to manufacturer guidance and recognized industry standards.

- (f) A manual shut off or ball valve must be installed on each supply line according to manufacturer guidance and recognized industry standards.
- (g) All valves must meet the construction criteria of 165:26-2-54.

Clarifies a vacuum actuated shutoff valve is not necessary if the pump is located on top of the tank (PEI 200 7.2.1); corrects grammar; corrects the location of where a check valve should be installed.

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 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 165:25-3-6.29.
- (d) Existing facilities that are replacing dispensers must install dispenser sumps and monitor as pursuant to 165:25-3-6.29 if modifications are made below the dispenser cabinet.
- (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.

Require replacement of all underground metallic lines when one line fails.

PART 9. DISPENSER REQUIREMENTS

165:26-2-91. Dispensers

- (a) Liquids must be transferred from storage tanks by means of fixed pumps designed and equipped to allow control of the flow and prevent leakage or accidental discharge.
- (b) Dispensing devices for Class I and Class II liquids must be listed.
 - (1) Existing listed or labeled dispensing devices may be modified provided the modifications made are "Listed by Report" by an approved testing laboratory or as otherwise approved by PSTD.

- (2) Modification proposals must contain a description of the component parts used in the modification and the recommended methods of installation on specific dispensing devices, and they must be made available to PSTD for approval prior to installation upon request.
- (c) A control must be provided that will permit the dispenser to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device and only when the switch on this dispensing device is manually actuated. This control must also stop the dispenser when all nozzles have been returned either to their brackets or to the normal non-dispensing position.
- (d) A UL listed emergency breakaway device designed to retain liquid on both sides of the breakaway point must be installed on each hose dispensing any class of liquids. These devices must be installed and maintained in accordance with the manufacturer's instructions. Where hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device must be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.
- (e) All gasoline, gasoline-alcohol blends, gasoline-ether blends, E85 Fuel ethanol, and M85 methanol dispensers located at retail facilities shall have a ten (10) micron or smaller nominal pore-sized filter. All biodiesel, biodiesel blends, diesel, and kerosene dispensers located at retail facilities shall have a thirty (30) micron or smaller nominal pore-sized filter.
- (f) Dispensers installed after August 27, 2015, that are connected to aboveground piping must have sumps underneath the dispensers and be monitored. Dispensers that cannot meet these requirements must be in a contained area such as a dike.
- (g) New dispensers installed at motor fuel facilities must be located ten feet (10') or more from any building.

Require approval for dispenser modifications; new dispensers must be installed 10 feet or more from a building (NFPA 30A-6.2.1).

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. If events require a change in the date of removal, the Division shall be given forty-eight (48) hours notice of 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, ~~and~~ lines and ancillary equipment must be removed upon closure unless ~~PSTD a~~ Commission order grants a variance.
- (d) An AST Licensee 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.

Require removal of tanks, lines, ancillary equipment (i.e., vent lines, etc.) unless a variance is granted.

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) ~~Remove all fluid from the tank~~ 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)~~ (5) Notify PSTD of a change in service on the prescribed form within thirty (30) days.

Establish the requirements for ASTs temporarily removed from service.

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 pressure and soap tested and test results submitted to PSTD before returning to service.

~~(a)~~ (b) A tightness test must be performed by a certified 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.

~~(b)~~ (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.

Require evidence of tank system integrity before returning a tank to service; submit test results to PSTD; submit return to service form to PSTD within 30 days; and a UST being used as an AST that is out of service for more than 12 months cannot be returned to service since it would not meet all of the requirements of this Chapter.

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 the tank of all flammable products.
- (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 165:26-2-214, "Assessing the site at tank closure or change in service".
- (4) An AST licensee Licensee 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.

Require removal of underground piping and ancillary equipment unless a variance is granted and a grammatical correction.

SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION

PART 14. RELEASE REPORTING REQUIREMENTS

165:26-3-77. Release reporting

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

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

- (1) The discovery of released regulated substances at the aboveground storage tank system facility or in the surrounding area (such as the presence of free product or vapors in soils, basements, crawlspaces, sewer and utility lines, and nearby surface water) whether on-site or off-site.
- (2) Any unusual operating conditions observed by owners, operators, their employees, or agents such as the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the aboveground storage tank system, or an unexplained presence of

water in the tank, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced.

(3) In the case of inventory control, two (2) consecutive thirty (30) day periods where the Total Gallons Over/Short is greater than the "Leak Check" (one percent (1%) of product sales plus 130 gallons) must be reported to PSTD within twenty-four (24) hours of the owner, operator, their employees, or agents discovering the inventory control results.

(4) Monitoring results from a release detection method required by this Chapter that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

(c) While aboveground releases of petroleum of less than twenty-five (25) gallons need not be reported to PSTD, they must be recorded by the owner or operator and contained and cleaned up immediately. All of the following releases must be reported to PSTD electronically or by telephone within twenty-four (24) hours of discovery, by the owner, operator, employee, or agent, with a written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter:

(1) All known belowground releases in any quantity; for example, a release resulting from a line broken during an excavation.

(2) Any aboveground release of petroleum greater than twenty-five (25) gallons.

(3) Any aboveground release of petroleum that is less than twenty-five (25) gallons, but cannot be contained and cleaned up within twenty-four (24) hours.

(d) All owners and/or operators of aboveground storage tank systems must maintain records of all reportable and non-reportable events listed in this section sufficient to permit adequate inspection and review by PSTD. These records must be kept for three (3) years following the date of the event.

(e) If any of the possible, probable or definite release conditions set forth in subsections (a) through (c) above are not reported within twenty-four (24) hours, the owner, operator, their employees, or agents may be subject to fining, formal enforcement action and/or shutdown of operations.

(f) Any releases requiring emergency corrective action must be reported immediately to PSTD at (405) 521-4683 or 1-888-621-5878. After office hours, weekends or holidays, calls must be reported to PSTD's emergency number at (405) 823-0994.

Adds the specific URL for reporting a release; clarifies reporting; establishes enforcement actions that may be taken when releases are not reported.

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

PART 1. INSPECTIONS

165:26-4-1. Owner/operator cooperation

(a) Owners and operators of regulated aboveground storage tank systems must cooperate with inspections, monitoring, sampling and testing requested by or conducted by PSTD.

(b) Upon request of PSTD, owners and operators must, at all reasonable times:

- (1) Furnish information relating to the owners' or operators' storage tank facilities, the contents of those facilities, and the associated equipment connected to those facilities.
- (2) Conduct monitoring or testing of storage tank facilities.
- (3) Permit PSTD to have access to, and to review, inspect, and copy records relating to storage tank facilities.

Authority for sampling established in 17 O.S. §323(12).

165:26-4-5. Inspection for compliance

- (a) All storage tank systems regulated by this Chapter must be physically inspected for compliance with the provisions of this Chapter.
- (b) These inspections may include, but not necessarily be limited to:
 - (1) Records of installation.
 - (2) Records of repair and retrofit operations.
 - (3) Review of release containment practices.
 - (4) Review of release detection practices.
 - (5) Compliance with prior Commission orders to perform corrective action.
 - (6) Records of removal and closure.
- (c) In addition, PSTD may perform any other inspection, testing, sampling or monitoring which is necessary to ensure compliance with this Chapter and to protect property, human health and safety and the environment.

Authority for sampling established in 17 O.S. §323(12).

**PART 5. NOTICES OF VIOLATION, ~~WARNING~~ FIELD CITATIONS,
AND ~~FINE CITATIONS~~ FORMAL ENFORCEMENT ACTIONS**

165:26-4-15. Notices of Violation, ~~Warning~~ Field Citations, and ~~Fine Citations~~ Formal Enforcement Actions

The purpose of this Section is to create a procedure that allows PSTD Fuel Specialists to issue Notices of Violation (NOVs); and for the Manager of Compliance and Inspection to issue ~~citation(s)~~ Field Citation(s) or refer to the Commission's Judicial and Legislative Services Division for formal enforcement action for any violation(s) found during Fuel Specialists' onsite inspections of storage tank systems and facilities. The issuance of an NOV or Field Citation will allow petroleum storage tank owners and operators to ~~quickly~~ promptly address and correct the storage tank violation(s) before a formal enforcement action is initiated.

Clarifies PSTD's current procedures when a violation is found and match the language for the same rule in Chapter 25 rules.

165:26-4-16. Notices of Violation

- (a) When a PSTD Fuel Specialist finds a violation of any rule, requirement, or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation ("NOV") ~~pursuant to Appendix G.~~

(1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation, and warn that further PSTD enforcement action may occur if the violation is not corrected.

~~(2) There are some violations where a Citation will be issued to the tank owner or operator.~~

~~(3)~~(2) The NOV must explain what the offense is and how ~~ean~~ it can be corrected.

(b) Notices of Violation will state the following information:

(1) A clear description of the violation(s).

(2) A date by which the violation(s) must be corrected.

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

(c) NOV(s) are issued to the owner or operator of the storage tank facility. If the owner/operator is not present, NOV(s) can be given to store personnel.

(d) All notifications and/or correspondence will be mailed or electronically submitted.

NOV's can be issued for any PSTD rule, not only the rules listed in Appendix G; stricken language is covered in next rule.

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

(a) On or after the date that the violation is to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.

(b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist **will may:**

(1) Refer the violation to the PSTD Compliance and Inspection Manager ~~for~~ or the Director's designee who may initiate formal enforcement action or issue a Field Citation; and/or

(2) ~~If the storage tank facility constitutes an immediate hazard it may be shut~~ Shut down the storage tank facility pending a correction of the problem or a PSTD hearing on the issue.

Clarifies the process and match the language for the same rule in Chapter 25.

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

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

(b) The tank owner or operator will have thirty (30) days from the date the Field Citation was issued to pay the fine.

(1) A fine may be paid with cash, a money order, ~~or~~ check or electronic method approved by the OCC. Any cash payment must be made at the Commission cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the ~~citation~~ Field Citation must be sent with the payment to ensure proper credit.

(2) Payment of the citation within the thirty (30) day time frame will not be considered a plea of liability.

(c) If the storage tank owner or operator disagrees with the citation, he or she ~~can have a~~ may appear at the Field Citation hearing at the Commission. If found guilty at the hearing, the tank owner or operator must pay the amount of the fine, as well as an administrative cost of \$250.00.

~~(1) To request a hearing, the procedure as provided on the citation should be followed and must be made within seven (7) days from the date the citation was issued.~~

~~(2) PSTD will set a date for a hearing and will notify the tank owner or operator of the date and time of the hearing.~~

~~(3) If found guilty at the hearing, the tank owner or operator must pay the amount of the citation, as well as an administrative cost of \$250.00.~~

(d) If a ~~citation~~ Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine will double. Refusal to comply with an order of the Commission may result in ~~formal enforcement~~ an additional fine being levied after notice and hearing in an amount as allowed by law, and shutdown of the facility for failure to pay fines.

(e) Failure of a tank owner or operator to appear at the hearing ~~will~~ may result in additional enforcement actions. ~~These actions may include the addition of a larger fine and/or assessment of an administrative fee.~~

(f) An appeal from the hearing may be made in accordance with Chapter 5 of Commission rules.

(g) A tank owner or operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.

Revised to match the language for the same rule in Chapter 25.

PART 7. PENALTIES

165:26-4-21. Penalties

(a) Pursuant to 17 O.S. § 311(A), any ~~owner or operator of a regulated aboveground storage tank system located within the State~~ **person** who violates any of the provisions of this Chapter ~~may~~ shall be issued a citation or ~~may be~~ subject to liable for an administrative penalty or fine not to exceed \$10,000.00 for each day that the violation continues.

(b) If the person disagrees with the violation(s) listed in the formal enforcement action, they may appear at the hearing at the Commission. If found guilty at the hearing, the person must pay the amount of the fine, as well as an administrative cost of \$250.00.

Clarifies liability for penalties when violations occur; administrative cost pursuant to 17 O.S. §310; and match the language for the same rule in Chapter 25.

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

PART 1. GENERAL APPLICATION AND COMPLIANCE PROVISIONS

165:26-8-2. Timeframes for registration and compliance with rules

- (a) Tanks that are greater than 110 gallons must be registered with PSTD. The tank and piping system must come in compliance with the rules of this Chapter and Subchapter before July 1, 2009. Compliance may be required sooner for any part of a system which poses a threat to property, people, or to the environment.
- (b) All new underground piping at existing facilities must be installed in accordance with 165:26-2-55, "Underground piping materials," and with ~~165:26-3-9~~ 165:26-3-20.2, "Installation and monitoring requirements for underground piping."
- (c) All dock or pier product piping from the shoreline to the dispensers at new facilities must be installed according to 165:26-8-40.1 "Over-water piping at marinas" and 165:26-8-40.2 "Installation requirements for over-water piping".
- (d) All dock or pier product piping from the shoreline to the dispensers at existing facilities must be upgraded before the deadline date of July 1, 2009 according to 165:26-8-40.1 "Over-water piping at marinas" and 165:26-8-40.2 "Installation requirements for over-water piping".
- (e) Temporary tanks may not be used at marinas.

Corrects the rule citation.

PART 21. MISCELLANEOUS SAFETY PROVISIONS

165:26-8-88. Fire extinguishers

- (a) Each marina must be provided with listed fire extinguishers which have a minimum total capacity of 40 pounds, Class B, Class C have a 40B:C fire extinguisher.
- (b) A minimum of three (3) extinguishers must be located at the fuel dock and one or more located so they will be within ~~50 ft.~~ fifty feet (50'-15 m) or fifteen meters (15 m) of each pump, dispenser, and underground fill pipe opening ~~and lubrication or service room.~~
- (c) Piers which extend more than ~~500 ft.~~ five hundred feet (500'-152 m) or one hundred fifty-two meters (152 m) in travel distance from shore must have a Class III standpipe installed in accordance with NFPA 14, Standard for the Installation of Standpipe and Hose Systems.
- (d) There must be a knife at the fuel dock for quickly cutting mooring lines in an emergency and a push pole for shoving away a boat.

Corrects terminology; strikes outdated reference to lube centers and service stations.

APPENDIX G. FINE CITATIONS TABLE [REVOKED]

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:26-1-41 165:26-1-42 165:26-1-47 165:26-2-1.1 165:26-2-212	Failure to register tanks within 30 days of bringing the system into place, or failure to amend registration to reflect changes	\$500
165:26-1-70	Failure to pay AST permit fees prior to due date	Not > 50% of fee
165:26-2-5.1	Tank owner/operator accepting delivery into AST that does not have spill protection	\$1000
165:26-2-5.1 165:26-2-40 165:26-2-41	Tank owner/operator accepting delivery into AST that does have overfill protection or a required corrosion protection system	\$1,000
Notification Requirements		
165:26-1-41 165:26-1-42 165:26-1-44	Failure to identify all storage tanks on notification form after third request, including a letter advising tank owner of the penalty	\$1,000
165:26-1-42 165:26-1-57	Failure to provide installation information on notification form after third request, including a letter advising tank owner of the penalty	\$1,000
165:26-1-57 165:26-2-210	Failure to notify the OCC prior to AST installation or closure.	\$500
165:26-1-48	Failure to report non-passing tank or line tightness test results.	\$500
Required Reports		
165:26-1-57	Failure to submit tank closure report within 45 days	\$250
165:29 165:26-3-77 165:26-3-171	Failure to submit required reports pertaining to suspected release investigations and/or corrective action activities in a timely manner	\$250
	Second offense and thereafter for same case or tracking number	\$500

Rule	Violation	Fine Amount
General Leak Detection Requirements		
165:26-3-77 165:26-3-171	Failure to notify Commission of indicated release	\$250
165:26-3-19 165:26-3-20 165:26-3-20.2 165:26-20.1	Failure to provide adequate release or leak detection for storage tank system (first offense)	\$250
	Second Offense	\$500
165:26-3-19 165:26-3-20	Third Offense Failure to monitor tank(s) for releases as required	\$1,000 \$250
165:26-3-20.1 165:26-3-20.2	Failure to use approved release or leak monitoring method for piping	\$250
165:26-1-55 165:26-1-57 165:26-1-58 165:26-1-59	Failure to maintain records of release or leak detection monitoring	\$250
165:26-1-56	Failure to retain records of calibration, maintenance, and repair of release or leak detection equipment	\$250
165:26-3-20.2	Failure to install or inspect leak detection on pressure piping	\$250
Spill & Overfill Control		
165:26-3-77	Failure to report a spill (over 25 gallons)	\$100
165:26-3-171	Failure to investigate a spill (over 25 gallons)	\$100
165:26-3-171	Failure to investigate an overfill spill	\$100
165:26-3-77	Failure to clean up a spill	\$500
165:26-3-77	Failure to clean up an overfill spill	\$500

Rule	Violation	Fine Amount
Operation/Maintenance of Corrosion Protection		
165:26-2-40 165:26-2-41	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 test corrosion protection system	\$250
165:26-1-57 165:26-1-58	Failure to maintain records of cathodic protection inspections or testing	\$250
165:26-2-42	Failure to use a qualified cathodic protection tester to inspect corrosion protection system at least once every three years (first offense)	\$500
	Second Offense	\$1,000
165:26-1-58 165:26-2-40	Failure to provide a Cathodic Protection Design or Suitability Study	\$1,000
Release Investigation & Confirmation		
165:26-1-48 165:26-3-171	Failure to conduct tightness test(s) to investigate suspected leak(s)	\$250
Temporary Closure		
165:26-2-211	Failure to secure all storage tank-related equipment for temporary closure Failure to operate and maintain release or leak detection as required in a temporarily closed storage tank system	\$250
Permanent Closure		
165:26-2-214	Failure to measure for the presence of a release before a permanent closure	\$500
165:26-1-57	Failure to maintain proper closure records	\$250
165:26-2-210	Failure to use licensed AST Remover	\$500

Rule	Violation	Fine Amount
Repairs Allowed		
165:26-2-1.1 165:26-2-191	Failure to use an AST licensee to install or repair person to repair	\$500
	Second offense or thereafter by owner (per owner, not per facility)	\$1000
165:26-2-42	Failure to test storage tank systems cathodic protection within 6 months of repair	\$250
165:26-2-8	Failure to perform tightness test on tank system after installation or repair	\$300
165:26-1-56	Failure to maintain repair records for operating life of storage tank	\$250
Other		
165:15-19-1	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
165:26-4-1	Failure to provide records upon request	\$100
	Second offense or thereafter by owner (per owner, not per facility)	\$500
Administrative Penalty	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.	

APPENDIX G. FIELD CITATIONS TABLE [NEW]

*Field Citation Table fine amounts will be used when Field Citations are issued, and may be used as a suggested fine amount in a formal Enforcement Action, but PSTD staff are not bound by these amounts.

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:26-1-41 165:26-1-42 165:26-1-47 165:26-2-1.1 165:26-2-212	Failure to register tanks within 30 days of bringing the system into place, or failure to amend registration to reflect changes	\$500
165:26-1-70	Failure to pay AST permit fees prior to due date	Not > 50% of fee
165:26-1-42	Operating a tank without a valid permit	\$1,000
165:26-2-5.1	Tank owner/operator accepting delivery into AST that does not have spill protection	\$1000
165:26-2-5.1 165:26-2-40 165:26-2-41	Tank owner/operator accepting delivery into AST that does have overfill protection or a required corrosion protection system	\$1,000
Notification Requirements		
165:26-1-41 165:26-1-42 165:26-1-44	Failure to identify all storage tanks on notification form after third request, including a letter advising tank owner of the penalty	\$1,000
165:26-1-42 165:26-1-57	Failure to provide installation information on notification form after third request, including a letter advising tank owner of the penalty	\$1,000
165:26-1-57 165:26-2-210	Failure to notify the OCC prior to AST installation or closure.	\$500
165:26-1-48	Failure to report non-passing tank or line tightness test results.	\$500
165:26 165:29	Failure to submit required PSTD paperwork in the required format and timeframe	\$250
	Second offense	\$500
	Third offense	\$750
Required Reports		
165:26-1-57	Failure to submit tank closure report within 45 days	\$250

165:29 165:26-3-77 165:26-3-171	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

Rule	Violation	Fine Amount
General Leak Detection Requirements		
165:26-3-77 165:26-3-171	Failure to notify Commission of indicated release	\$250
165:26-3-19 165:26-3-20 165:26-3-20.2 165:26-20.1	Failure to provide adequate release or leak detection for storage tank system (first offense)	\$250
	Second Offense	\$500
165:26-3-19	Third Offense	\$1,000
165:26-3-20	Failure to monitor tank(s) for releases as required	\$250
165:26-3-20.1 165:26-3-20.2	Failure to use approved release or leak monitoring method for piping	\$250
165:26-1-55 165:26-1-57 165:26-1-58 165:26-1-59	Failure to maintain records of release or leak detection monitoring	\$250
165:26-1-56	Failure to retain records of calibration, maintenance, and repair of release or leak detection equipment	\$250
165:26-3-20.2	Failure to install or inspect leak detection on pressure piping	\$250
Spill & Overfill Control		
165:26-3-77	Failure to report a spill (over 25 gallons)	\$100
165:26-3-171	Failure to investigate a spill (over 25 gallons)	\$100
165:26-3-171	Failure to investigate an overfill spill	\$100

165:26-3-77	Failure to clean up a spill	\$500
165:26-3-77	Failure to clean up an overflow spill	\$500

Rule	Violation	Fine Amount
Operation/Maintenance of Corrosion Protection		
165:26-2-40 165:26-2-41	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 test corrosion protection system	\$250
165:26-1-57 165:26-1-58	Failure to maintain records of cathodic protection inspections or testing	\$250
165:26-2-42	Failure to use a qualified cathodic protection tester to inspect corrosion protection system at least once every three years (first offense)	\$500
	Second Offense	\$1,000
165:26-1-58 165:26-2-40	Failure to provide a Cathodic Protection Design or Suitability Study	\$1,000
Release Investigation & Confirmation		
165:26-1-48 165:26-3-171	Failure to conduct tightness test(s) to investigate suspected leak(s)	\$250
Temporary Closure		
165:26-2-211	Failure to secure all storage tank-related equipment for temporary closure Failure to operate and maintain release or leak detection as required in a temporarily closed storage tank system	\$250
Permanent Closure		
165:26-2-214	Failure to measure for the presence of a release before a permanent closure	\$500
165:26-1-57	Failure to maintain proper closure records	\$250
165:26-2-210	Failure to use licensed AST Remover	\$500

Rule	Violation	Fine Amount
Repairs Allowed		
165:26-2-1.1 165:26-2-191	Failure to use an AST licensee to install or repair person to repair	\$500
	Second offense or thereafter by owner (per owner, not per facility)	\$1000
165:26-2-42	Failure to test storage tank systems cathodic protection within 6 months of repair	\$250
165:26-2-8	Failure to perform tightness test on tank system after installation or repair	\$300
165:26-1-56	Failure to maintain repair records for operating life of storage tank	\$250
Other		
165:15-19-1	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
165:26-4-1	Failure to provide records upon request	\$100
	Second offense or thereafter by owner (per owner, not per facility)	\$500
165:26-1-90	NOV issued but violation not corrected	\$500
Administrative Penalty	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.	

Establishes fines for common violations (authority in 17 O.S. § 311).