

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION AMENDING
OAC 165:26, ABOVEGROUND STORAGE TANKS

CASE NO. RM2023-000011

**PETROLEUM STORAGE TANK DIVISION'S PROPOSED RULES AMENDING
CHAPTER 26. ABOVEGROUND STORAGE TANKS**

December 7, 2023

(Changes since November 9, 2023, are highlighted in yellow)

**TITLE 165. CORPORATION COMMISSION
CHAPTER 26. ABOVEGROUND STORAGE TANKS**

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 1×10^{-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 **substancessubstance"** 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.

PART 5. STANDARDS AND CODES

165:26-1-31. Codes and standards

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~~2024, "Flammable and Combustible Liquids Code."
 - (B) Standard Number 30A, ~~2021~~2024, "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 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.

(10) Association of Materials Protection and Performance (AMPP/NACE), 15835 Park Ten Place, Houston, Texas 77084. Telephone (800) 797-6223.

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 licensed, 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, line and line leak detector ~~and line tightness~~ testing must be scheduled by submitting the PSTD scheduling form in the established online format and PSTD staff may be present.

PART 9. RECORDKEEPING

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 ~~created 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 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.

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.](#)
- [\(5\) Fees must be paid in accordance with OAC 165:5.](#)
- [\(b\) No individual shall test an AST system unless that individual is licensed as required by this Chapter.](#)

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.

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. Installation testing may be conducted by the licensed AST Installer unless otherwise noted.

(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 while 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 a licensed tester 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 0.1 gph).

(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.

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:~~

(a) (1) 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

(c) (2) 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.

(d) (3) 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) SP0285.

(e) (4) 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.

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.

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".

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~~ [A licensed](#) AST 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.

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.](#)

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.

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) ~~Any~~ [A licensed](#) 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.

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 \(excluding a change in a regulated substance\), 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 ~~when choosing sample locations~~ [on PSTD's website](#).
- (b) For tank systems containing petroleum product, analyses ~~must be done for both TPH and BTEX~~ [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 OAC 165:29](#) 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.

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).

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 performed by a licensed tester 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 a licensed tester 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 by a licensed tester according to manufacturer's requirements. This test must be scheduled in the established online format prior to testing. Sensors status and alarm history reports must be printed ~~manually recorded~~ and retained ~~for each thirty (30) day period~~ or an interstitial monitoring form used every thirty (30) days.

(iii) An annual function test of the operation of the leak detector must be conducted by a licensed tester 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 a licensed tester 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 by a licensed tester according to manufacturer's requirements. This test must be scheduled in the established online format prior to testing. Sensors status and alarm history reports must be printed ~~manually recorded~~ and retained ~~for each thirty (30) day period or an interstitial monitoring form used every thirty (30) days.~~

(B) Annual Line Tightness Testing. A hydrostatic line tightness test must be performed annually by a ~~certified~~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 1st of each year 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.

APPENDIX G. ~~FINE~~FIELD CITATIONS TABLE

*~~Fine~~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).

Rule	Violation	Fine Amount
Registration & Permit Requirements		
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
Notification Requirements		
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
Required Reports		
165:26-1-57	Failure to submit tank closure report within 45 days	\$250

Rule	Violation	Fine Amount
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
General Leak Detection Requirements		
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
Spill & Overfill Prevention		
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
Operation and Maintenance of Corrosion Protection		
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 qualified <u>licensed</u> cathodic protection tester to inspect corrosion protection system at least once every three years (first offense)	\$500
	Second Offense	\$1,000

Rule	Violation	Fine Amount
165:26-2-42	Failure to test cathodic protection system within 6 months installation or repair	\$250
Release Investigation & Confirmation		
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
Temporary Closure		
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
Permanent Closure		
165:26-2-213	Failure to use a PSTD licensed AST Remover	\$500 \$5,000
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
Repairs		
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 person to repair as required	\$500 \$5,000
	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
Other		
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

Rule	Violation	Fine Amount
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.	