

1 Therefore the Legislature declares it is the public policy of
2 this state to protect the public health, safety, welfare, the state
3 economy and the environment from the potential harmful effects of
4 storage tanks used to store ~~hazardous substances and~~ petroleum. In
5 order to implement this policy, it is the intent of the Legislature
6 to establish a program for the regulation of storage tank systems.

7 SECTION 2. AMENDATORY 17 O.S. 2011, Section 303, is
8 amended to read as follows:

9 Section 303. As used in the Oklahoma Storage Tank Regulation
10 Act:

- 11 1. "Abandoned system" means a storage tank system which:
- 12 a. has been taken permanently out of service as a storage
13 vessel for any reason or is not intended to be
14 returned to service,
 - 15 b. has been out of service for one (1) year or more prior
16 to April 21, 1989, or
 - 17 c. has been rendered permanently unfit for use as
18 determined by the Commission;
- 19 2. "Action level" means that the regulated substances have
20 reached the level of contamination;
- 21 3. "Active case" means a confirmed release notice has been
22 issued by the Corporation Commission to the owner or operator for
23 the specified location;

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1 4. "Backfill" means only the material placed in the excavation
2 zone to support the petroleum storage tank system;

3 5. "Chemicals of concern" means chemicals that may pose a
4 threat to human health and the environment;

5 6. "Closed case" means a previously active case which had a
6 confirmed release and the Commission has issued a closure letter
7 advising that no further ~~remediation~~ corrective action is necessary
8 on the site;

9 7. "Commission" means the Corporation Commission;

10 8. "Contaminants" or "contamination" means a level of
11 concentration of chemicals of concern that may be sufficient to
12 cause adverse effects upon human health or the environment or cause
13 a nuisance;

14 9. "Corrective action" means action taken to monitor,
15 investigate, minimize, eliminate or perform remediation of a release
16 from a storage tank system;

17 10. "Corrective action plan" means the plan submitted to the
18 regulatory program of the Corporation Commission detailing the
19 method and manner of corrective action to be taken for a release;

20 11. "Department" means the Department of Environmental Quality;

21 12. "Director" means the Director of the Petroleum Storage Tank
22 Division of the Corporation Commission;

23 13. "Division" means the Petroleum Storage Tank Division of the
24 Corporation Commission;

1 14. "Eligible person" means the party who has made application
2 to the Petroleum Storage Tank Indemnity Fund and met applicable
3 criteria to receive Petroleum Storage Tank Indemnity Fund
4 reimbursement on a confirmed release;

5 15. "Eligible release" means a release of regulated substances
6 where the cost of cleanup is subject to reimbursement by the
7 Petroleum Storage Tank Indemnity Fund;

8 16. "Environment" means any water, water vapor, any land
9 including land surface or subsurface, atmosphere, fish, wildlife,
10 biota, domestic animals and all other natural resources;

11 17. "Environmental consultant" means an individual licensed by
12 the Commission or an environmental consulting company retaining or
13 employing a Commission-licensed ~~remediation~~ environmental
14 consultant;

15 18. "Facility" means any location or part thereof containing
16 one or more storage tanks or systems;

17 ~~19. "Hazardous substance" means any substance defined in~~
18 ~~Section 101(14) of the Comprehensive Environmental Response,~~
19 ~~Compensation and Liability Act of 1980, 42 U.S.C., Section 9601, but~~
20 ~~not including:~~

- 21 a. ~~any substance regulated as a hazardous waste under~~
22 ~~Subtitle C of the federal Solid Waste Disposal Act, 42~~
23 ~~U.S.C., Section 6903, or~~

1 ~~b. any substance regulated as a hazardous waste under the~~
2 ~~Oklahoma Hazardous Waste Management Act.~~

3 ~~The term hazardous substance shall also include a mixture of~~
4 ~~hazardous substances and petroleum, providing the amount of~~
5 ~~petroleum is of a de minimus quantity;~~

6 ~~20.~~ "New system" means a storage tank system for which the
7 installation or upgrade of the system began on or after December 22,
8 1998;

9 ~~21.~~ 20. "Operator" means any person in control of or having
10 responsibility for the daily operation of the storage tank system,
11 whether by lease, contract, or other form of agreement. The term
12 "operator" also includes a past operator at the time of a release,
13 tank closure, or a violation of the Oklahoma Storage Tank Regulation
14 Act or of a rule promulgated thereunder;

15 ~~22.~~ 21. "Owner" means:

- 16 a. in the case of a storage tank system in use on
17 November 8, 1984, or brought into use after that date,
18 any person who holds title to, controls, or possesses
19 an interest in a storage tank system used for the
20 storage, use, or dispensing of regulated substances,
21 or
22 b. in the case of a storage tank system in use before
23 November 8, 1984, but no longer in service on that
24 date, any person who holds title to, controls, or

1 possesses an interest in a storage tank system
2 immediately before the discontinuation of its use.

3 The term "owner" does not include a person who holds an interest
4 in a tank system solely for financial security, unless through
5 foreclosure or other related actions the holder of a security
6 interest has taken possession of the tank system;

7 ~~23.~~ 22. "Permit" means any registration, permit, license or
8 other authorization issued by the Commission to operate a storage
9 tank system;

10 ~~24.~~ 23. "Person" means any individual, trust, firm, joint stock
11 company or corporation, limited liability company, partnership,
12 association, any representative appointed by order of a court, the
13 state, any municipality, county, school district or other political
14 subdivision or agency of the state, or any interstate body. The
15 term also includes a consortium, a joint venture, a commercial
16 entity, the United States Government, a federal agency, including a
17 government corporation, or any other legal entity;

18 ~~25.~~ 24. "Petroleum" means antifreeze, new or used motor oil,
19 gasoline, kerosene, diesel, aviation fuel or blended fuel including,
20 but not limited to, gasoline, diesel, and aviation fuel that is
21 blended with biodiesel, ethanol, Methyl Tertiary Butyl Ether (MTBE)
22 or other additive for purposes of fueling a combustion engine;

1 ~~26.~~ 25. "Pipeline facilities" means new and existing pipe
2 rights-of-way and any equipment, facilities or buildings regulated
3 under:

- 4 a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.
5 App., 1671, et seq.),
- 6 b. the Hazardous Liquid Pipeline Safety Act of 1979 (49
7 U.S.C. 2001, et seq.),
- 8 c. the state Hazardous Liquid Transportation System
9 Safety Act, Section 47.1 et seq. of Title 52 of the
10 Oklahoma Statutes, or
- 11 d. intrastate pipeline facilities regulated under state
12 law;

13 ~~27.~~ 26. "Pollution" means contamination or other alteration of
14 the physical, chemical or biological properties of any natural
15 waters of the state, land surfaces or subsurfaces, or atmosphere
16 when such contamination or alteration will or is likely to create a
17 nuisance or render the waters, land or atmosphere harmful or
18 detrimental or injurious to the public health, safety or welfare or
19 the environment;

20 ~~28.~~ 27. "Regulated ~~substances~~ substance" means ~~hazardous~~
21 ~~substances~~ or petroleum which ~~are~~ is regulated pursuant to the
22 Oklahoma Storage Tank Regulation Act;

1 ~~29.~~ 28. "Release" means any spilling, overfilling, or leaking
2 from a storage tank system that goes beyond the excavation zone,
3 tankpit, or secondary containment facility into the environment;

4 ~~30.~~ 29. "Remediation" means a process or technique used to
5 reduce concentration levels of chemicals of concern in the soil and
6 groundwater, and/or to reduce the presence of free product in the
7 environment to levels that are protective of human health, safety
8 and the environment;

9 ~~31.~~ 30. "Residual product" means petroleum that is absorbed or
10 otherwise bound to geological materials including, but not limited
11 to, sand, silt, or clay in any soil zone in such a manner that
12 groundwater in contact with the residual product or beneath the
13 residual product is not contaminated with regulated substances;

14 ~~32.~~ 31. "Responsible person" means a person other than a
15 petroleum storage tank system owner or operator, such as an adjacent
16 property owner, impacted party, city or political subdivision, that
17 is seeking corrective action of real property, and submits to the
18 jurisdiction of the Commission;

19 ~~33.~~ 32. "Smear zone" means any soil zone containing petroleum
20 that may contaminate groundwater in contact with regulated
21 substances;

22 ~~34.~~ 33. "Soil zone" means and includes, but is not limited to,
23 vadose zone, capillary fringe, or saturated soil zone;

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1 ~~35.~~ 34. "Storage tank system" means a closed-plumbed system
2 including, but not limited to, the storage tank(s), the lines, the
3 dispenser for a given product, and a delivery truck that is
4 connected to the storage tank system;

5 ~~36.~~ 35. "Suspicion of release" means preliminary investigative
6 work or assessment performed under a Petroleum Storage Tank Division
7 purchase order to determine if a confirmed release is warranted.
8 The Petroleum Storage Tank Division eligibility process is not
9 required for Petroleum Storage Tank Indemnity Fund reimbursement on
10 a suspicion of release;

11 ~~37.~~ 36. "Storage tank" means a stationary vessel designed to
12 contain an accumulation of regulated substances which is constructed
13 of primarily non-earthen materials that provide structural support;

14 ~~38.~~ 37. "Transporter" means any person who transports, delivers
15 or distributes any quantity of regulated substance from one point to
16 another for the purpose of wholesale or retail gain;

17 ~~39.~~ 38. "Waters of the state" means all streams, lakes, ponds,
18 marshes, watercourses, waterways, wells, springs, irrigation
19 systems, drainage systems and all other bodies or accumulations of
20 water, surface and underground, natural or artificial, public or
21 private, which are contained within, flow through, or border upon
22 the State of Oklahoma or any portion thereof; and

23 ~~40.~~ 39. "Work plan" means scopes of work necessary to
24 investigate and/or remediate a release from a storage tank system.

1 SECTION 3. This act shall become effective November 1, 2016.

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3 COMMITTEE REPORT BY: COMMITTEE ON ENVIRONMENTAL LAW, dated
4 02/17/2016 - DO PASS, As Coauthored.

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