

EHB 2507

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THE STATE SENATE
Monday, April 3, 2006

ENGROSSED

House Bill No. 2507

ENGROSSED HOUSE BILL NO. 2507 - By: ADKINS of the House and LERBLANCE of the Senate.

An Act relating to Corporation Commission; amending 17 O.S. 2001, Sections 303, as last amended by Section 1, Chapter 435, O.S.L. 2005, and 304 (17 O.S. Supp. 2005, Section 303), which relate to the Oklahoma Storage Tank Regulation Act; modifying definition; modifying exempt capacity for underground storage tank systems; making certain aboveground storage tanks with certain capacity exempt from the act; modifying limitation for certain exemption; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2001, Section 303, as last amended by Section 1, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2005, Section 303), is amended to read as follows:

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

- 1. "Abandoned system" means a storage tank system which:
 - a. has been taken permanently out of service as a storage vessel for any reason or is not intended to be returned to service,
 - b. has been out of service for one (1) year or more prior to April 21, 1989, or

- 1 c. has been rendered permanently unfit for use as
2 determined by the Commission;
- 3 2. "Action level" means that the regulated substances have
4 reached the level of contamination;
- 5 3. "Active case" means a confirmed release notice has been
6 issued by the Corporation Commission to the owner or operator for
7 the specified location;
- 8 4. "Backfill" means only the material placed in the excavation
9 zone to support the petroleum storage tank system;
- 10 5. "Chemicals of concern" means chemicals that may pose a
11 threat to human health and the environment;
- 12 6. "Closed case" means a previously active case which had a
13 confirmed release and the Commission has issued a closure letter
14 advising that no further remediation action is necessary on the
15 site;
- 16 7. "Commission" means the Corporation Commission;
- 17 8. "Contaminants" or "contamination" means a level of
18 concentration of chemicals of concern that may be sufficient to
19 cause adverse effects upon human health or the environment or cause
20 a nuisance;
- 21 9. "Corrective action" means action taken to monitor,
22 investigate, minimize, eliminate or perform remediation of a release
23 from a storage tank system;

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

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

5 12. "Director" means the Director of the Petroleum Storage Tank
6 Division of the Corporation Commission;

7 13. "Division" means the Petroleum Storage Tank Division of the
8 Corporation Commission;

9 14. "Eligible person" means the party who has made application
10 to the Petroleum Storage Tank Indemnity Fund and met applicable
11 criteria to receive Petroleum Storage Tank Indemnity Fund
12 reimbursement on a confirmed release;

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

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

19 17. "Environmental consultant" means an individual licensed by
20 the Commission or an environmental consulting company retaining or
21 employing a Commission-licensed remediation consultant;

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

1 19. "Hazardous substance" means any substance defined in Section
2 101(14) of the Comprehensive Environmental Response, Compensation
3 and Liability Act of 1980, 42 U.S.C., Section 9601, but not
4 including:

- 5 a. any substance regulated as a hazardous waste under
6 Subtitle C of the federal Solid Waste Disposal Act, 42
7 U.S.C., Section 6903, or
- 8 b. any substance regulated as a hazardous waste under the
9 Oklahoma Hazardous Waste Management Act.

10 The term hazardous substance shall also include a mixture of
11 hazardous substances and petroleum, providing the amount of
12 petroleum is of a de minimus quantity;

13 20. "New system" means a storage tank system for which the
14 installation or upgrade of the system began on or after December 22,
15 1998;

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

22 22. "Owner" means:

- 1 a. in the case of a storage tank system in use on
2 November 8, 1984, or brought into use after that date,
3 any person who holds title to, controls, or possesses
4 an interest in a storage tank system used for the
5 storage, use, or dispensing of regulated substances,
6 or
7 b. in the case of a storage tank system in use before
8 November 8, 1984, but no longer in service on that
9 date, any person who holds title to, controls, or
10 possesses an interest in a storage tank system
11 immediately before the discontinuation of its use.

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

16 23. "Permit" means any registration, permit, license or other
17 authorization issued by the Commission to operate a storage tank
18 system;

19 24. "Person" means any individual, trust, firm, joint stock
20 company or corporation, limited liability company, partnership,
21 association, any representative appointed by order of a court, the
22 state, any municipality, county, school district or other political
23 subdivision or agency of the state, or any interstate body. The

1 term also includes a consortium, a joint venture, a commercial
2 entity, the United States Government, a federal agency, including a
3 government corporation, or any other legal entity;

4 25. "Petroleum" means ethylene glycol-based antifreeze, crude
5 oil, crude oil fractions, and refined petroleum fractions, including
6 motor fuel, motor fuel with the fuel additive Methyl Tertiary Butyl
7 Ether (MTBE), jet fuel, distillate fuel oils, residual fuel oils,
8 lubricants, petroleum solvents and used oil which are liquid at
9 standard conditions of temperature and pressure (60 degrees
10 Fahrenheit and 14.7 pounds per square inch absolute). "Petroleum"
11 also means a mixture of petroleum and hazardous substances; ~~provided~~
12 if the amount of the hazardous substances is of a de minimus
13 quantity;

14 26. "Pipeline facilities" means new and existing pipe rights-
15 of-way and any equipment, facilities or buildings regulated under:

- 16 a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.
17 App., 1671, et seq.),
- 18 b. the Hazardous Liquid Pipeline Safety Act of 1979 (49
19 U.S.C. 2001, et seq.),
- 20 c. the state Hazardous Liquid Transportation System
21 Safety Act, Section 47.1 et seq. of Title 52 of the
22 Oklahoma Statutes, or

1 d. intrastate pipeline facilities regulated under state
2 law;

3 27. "Pollution" means contamination or other alteration of the
4 physical, chemical or biological properties of any natural waters of
5 the state, land surfaces or subsurfaces, or atmosphere when such
6 contamination or alteration will or is likely to create a nuisance
7 or render the waters, land or atmosphere harmful or detrimental or
8 injurious to the public health, safety or welfare or the
9 environment;

10 28. "Regulated substances" means hazardous substances or
11 petroleum which are regulated pursuant to the Oklahoma Storage Tank
12 Regulation Act;

13 29. "Release" means any spilling, overfilling, or leaking from
14 a storage tank system that goes beyond the excavation zone, tankpit,
15 or secondary containment facility into the environment;

16 30. "Remediation" means a process or technique used to reduce
17 concentration levels of chemicals of concern in the soil and
18 groundwater, and/or to reduce the presence of free product in the
19 environment to levels that are protective of human health, safety
20 and the environment;

21 31. "Residual product" means petroleum that is absorbed or
22 otherwise bound to geological materials including, but not limited
23 to, sand, silt, or clay in any soil zone in such a manner that

1 groundwater in contact with the residual product or beneath the
2 residual product is not contaminated with regulated substances;

3 32. "Responsible person" means a person other than a petroleum
4 storage tank system owner or operator, such as an adjacent property
5 owner, impacted party, city or political subdivision, that is
6 seeking corrective action of real property, and submits to the
7 jurisdiction of the Commission;

8 33. "Smear zone" means any soil zone containing petroleum that
9 may contaminate groundwater in contact with regulated substances;

10 34. "Soil zone" means and includes, but is not limited to,
11 vadose zone, capillary fringe, or saturated soil zone;

12 35. "Storage tank system" means a closed-plumbed system
13 including, but not limited to, the storage tank(s), the lines, the
14 dispenser for a given product, and a delivery truck that is
15 connected to the storage tank system;

16 36. "Suspicion of release" means preliminary investigative work
17 or assessment performed under a Petroleum Storage Tank Division
18 purchase order to determine if a confirmed release is warranted.
19 The Petroleum Storage Tank Division eligibility process is not
20 required for Petroleum Storage Tank Indemnity Fund reimbursement on
21 a suspicion of release;

1 37. "Storage tank" means a stationary vessel designed to
2 contain an accumulation of regulated substances which is constructed
3 of primarily non-earthen materials that provide structural support;

4 38. "Transporter" means any person who transports, delivers or
5 distributes any quantity of regulated substance from one point to
6 another for the purpose of wholesale or retail gain;

7 39. "Waters of the state" means all streams, lakes, ponds,
8 marshes, watercourses, waterways, wells, springs, irrigation
9 systems, drainage systems and all other bodies or accumulations of
10 water, surface and underground, natural or artificial, public or
11 private, which are contained within, flow through, or border upon
12 the State of Oklahoma or any portion thereof; and

13 40. "Work plan" means scopes of work necessary to investigate
14 and/or remediate a release from a storage tank system.

15 SECTION 2. AMENDATORY 17 O.S. 2001, Section 304, is
16 amended to read as follows:

17 Section 304. The provisions of the Oklahoma Storage Tank
18 Regulation Act shall not apply to:

- 19 1. Septic tank systems;
- 20 2. Pipeline facilities;
- 21 3. Surface impoundments, pits, ponds or lagoons;
- 22 4. Stormwater and wastewater collection systems;
- 23 5. Flow-through process tank systems;

1 6. Liquid trap or associated gathering lines directly related
2 to oil or gas production and gathering operations;

3 7. Hydraulic lift tank systems;

4 8. ~~Storage~~ Underground storage tank systems with a capacity of
5 less than one hundred ten (110) gallons;

6 9. Fleet and commercial aboveground storage tank systems with a
7 capacity of one thousand three hundred twenty (1,320) gallons or
8 less;

9 10. Storage tank systems with a de minimus concentration of
10 regulated substances including but not limited to swimming pools and
11 coffins;

12 ~~10.~~ 11. Storage tank systems that serve as emergency backup
13 tanks, provided that such backup tanks hold regulated substances for
14 only a short period of time and are expeditiously emptied after each
15 use. The provisions of this paragraph shall not prevent Corporation
16 Commission notification requirements and such other restrictions as
17 may be deemed necessary by the Commission to protect the
18 environment;

19 ~~11.~~ 12. Storage tank systems with a capacity of ~~one thousand~~
20 ~~one hundred (1,100)~~ one thousand three hundred twenty (1,320)
21 gallons or less used for noncommercial agricultural or residential
22 purposes;

1 ~~12.~~ 13. Storage tank systems and residential tanks for
2 noncommercial use for storing heating oil for consumptive use on the
3 premises where stored; and

4 ~~13.~~ 14. Storage tank systems storing hazardous wastes regulated
5 under Subtitle C of the federal Solid Waste Disposal Act, 42 U.S.C.,
6 Section 6921 et seq., or substances regulated as hazardous wastes
7 under the Oklahoma Hazardous Waste Management Act.

8 SECTION 3. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
13 3-30-06 - DO PASS.