

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 9, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1423

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1423 - By:  
LERBLANCE of the Senate and ADKINS of the House.

( Corporation Commission - Oklahoma Storage Tank Regulation Act - powers  
and duties - codification - effective date -  
emergency )

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

- 1 SECTION 1. AMENDATORY 17 O.S. 2001, Section 303, as last amended by  
2 Section 1, Chapter 28, O.S.L. 2006 (17 O.S. Supp. 2007, Section 303), is amended to read  
3 as follows:
- 4 Section 303. As used in the Oklahoma Storage Tank Regulation Act:
- 5 1. "Abandoned system" means a storage tank system which:
- 6 a. has been taken permanently out of service as a storage vessel for any  
7 reason or is not intended to be returned to service,  
8 b. has been out of service for one (1) year or more prior to April 21, 1989,  
9 or  
10 c. has been rendered permanently unfit for use as determined by the  
11 Commission;

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

1           12. “Director” means the Director of the Petroleum Storage Tank Division of the  
2 Corporation Commission;

3           13. “Division” means the Petroleum Storage Tank Division of the Corporation  
4 Commission;

5           14. “Eligible person” means the party who has made application to the Petroleum  
6 Storage Tank Indemnity Fund and met applicable criteria to receive Petroleum Storage  
7 Tank Indemnity Fund reimbursement on a confirmed release;

8           15. “Eligible release” means a release of regulated substances where the cost of  
9 cleanup is subject to reimbursement by the Petroleum Storage Tank Indemnity Fund;

10          16. “Environment” means any water, water vapor, any land including land surface  
11 or subsurface, atmosphere, fish, wildlife, biota, domestic animals and all other natural  
12 resources;

13          17. “Environmental consultant” means an individual licensed by the Commission or  
14 an environmental consulting company retaining or employing a Commission-licensed  
15 remediation consultant;

16          18. “Facility” means any location or part thereof containing one or more storage  
17 tanks or systems;

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

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



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

4 23. “Permit” means any registration, permit, license or other authorization issued  
5 by the Commission to operate a storage tank system;

6 24. “Person” means any individual, trust, firm, joint stock company or corporation,  
7 limited liability company, partnership, association, any representative appointed by  
8 order of a court, the state, any municipality, county, school district or other political  
9 subdivision or agency of the state, or any interstate body. The term also includes a  
10 consortium, a joint venture, a commercial entity, the United States Government, a  
11 federal agency, including a government corporation, or any other legal entity;

12 25. “Petroleum” means ~~ethylene glycol-based antifreeze, crude oil, crude oil~~  
13 ~~fractions, and refined petroleum fractions, including motor fuel, motor fuel with the fuel~~  
14 ~~additive Methyl Tertiary Butyl Ether (MTBE), jet fuel, distillate fuel oils, residual fuel~~  
15 ~~oils, lubricants, petroleum solvents and used oil which are liquid at standard conditions~~  
16 ~~of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch~~  
17 ~~absolute). “Petroleum” also means a mixture of petroleum and hazardous substances if~~  
18 ~~the amount of the hazardous substances is of a de minimus quantity~~ antifreeze, new or  
19 used motor oil, gasoline, kerosene, diesel, aviation fuel or blended fuel including but not  
20 limited to gasoline, diesel, and aviation fuel that is blended with biodiesel, ethanol,  
21 Methyl Tertiary Butyl Ether (MTBE) or other additive for purposes of fueling a  
22 combustion engine;

1           26. “Pipeline facilities” means new and existing pipe rights-of-way and any  
2 equipment, facilities or buildings regulated under:

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

10          27. “Pollution” means contamination or other alteration of the physical, chemical or  
11 biological properties of any natural waters of the state, land surfaces or subsurfaces, or  
12 atmosphere when such contamination or alteration will or is likely to create a nuisance  
13 or render the waters, land or atmosphere harmful or detrimental or injurious to the  
14 public health, safety or welfare or the environment;

15          28. “Regulated substances” means hazardous substances or petroleum which are  
16 regulated pursuant to the Oklahoma Storage Tank Regulation Act;

17          29. “Release” means any spilling, overfilling, or leaking from a storage tank system  
18 that goes beyond the excavation zone, tankpit, or secondary containment facility into the  
19 environment;

20          30. “Remediation” means a process or technique used to reduce concentration levels  
21 of chemicals of concern in the soil and groundwater, and/or to reduce the presence of free

1 product in the environment to levels that are protective of human health, safety and the  
2 environment;

3 31. “Residual product” means petroleum that is absorbed or otherwise bound to  
4 geological materials including, but not limited to, sand, silt, or clay in any soil zone in  
5 such a manner that groundwater in contact with the residual product or beneath the  
6 residual product is not contaminated with regulated substances;

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

11 33. “Smear zone” means any soil zone containing petroleum that may contaminate  
12 groundwater in contact with regulated substances;

13 34. “Soil zone” means and includes, but is not limited to, vadose zone, capillary  
14 fringe, or saturated soil zone;

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

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

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

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

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

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

14           SECTION 2. AMENDATORY   17 O.S. 2001, Section 306, as last amended by  
15 Section 2, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 306), is amended to  
16 read as follows:

17           Section 306. In addition to other powers and duties prescribed by law, the  
18 Corporation Commission shall have the power and duty to:

19           1. Issue, renew, deny, modify, suspend, refuse to renew and revoke permits for  
20 storage tank systems pursuant to the provisions of the Oklahoma Storage Tank  
21 Regulation Act and rules promulgated pursuant thereto;

- 1           2. Enter at any reasonable time upon any public or private property for the purpose  
2 of inspecting and investigating storage tank system monitoring or remediation  
3 equipment and taking such samples as may be necessary to determine compliance with  
4 the provisions of the Oklahoma Storage Tank Regulation Act, and rules promulgated  
5 pursuant thereto;
- 6           3. Request issuance of an administrative warrant or search warrant as may be  
7 necessary by Commission application after notice and hearing to allow entry, inspection,  
8 testing, sampling, or copying on public or private property;
- 9           4. Have access to and copy any records required to be maintained pursuant to the  
10 provisions of the Oklahoma Storage Tank Regulation Act or rules promulgated pursuant  
11 thereto;
- 12           5. Inspect any equipment, practice or method prior to implementation which is  
13 required by the provisions of the Oklahoma Storage Tank Regulation Act or rules  
14 promulgated pursuant thereto;
- 15           6. Have access to and inspect any monitoring stations, samples, or conduct tests to  
16 identify any actual or suspected release of a regulated substance;
- 17           7. Employ or designate personnel to conduct investigations and inspections, to  
18 make reports of compliance with the provisions of the Oklahoma Storage Tank  
19 Regulation Act and rules promulgated pursuant thereto;
- 20           8. Within its discretion, report to the district attorney having jurisdiction or to the  
21 Attorney General any act committed by an owner, operator or employee of a facility

1 which may constitute a violation of the provisions of the Oklahoma Storage Tank  
2 Regulation Act or rules promulgated pursuant thereto;

3 9. Advise, consult, assist, and cooperate with other agencies of this state, the  
4 federal government, other states and interstate agencies and with affected groups and  
5 political subdivisions to further the purposes of the provisions of the Oklahoma Storage  
6 Tank Regulation Act;

7 10. Financially assist other agencies and political subdivisions of the state where  
8 the Petroleum Storage Tank Division has jurisdiction;

9 11. Administer the Storage Tank Program in lieu of the federal government upon  
10 approval by the Environmental Protection Agency;

11 12. Promulgate and enforce rules to implement the provisions of the Oklahoma  
12 Storage Tank Regulation Act;

13 13. Establish minimum standards and schedules for storage tank system;

14 14. Require any owner or operator of a storage tank system within this state to:

15 a. submit such reports and information concerning the storage tank  
16 system as may be determined necessary by the Commission pursuant  
17 to the provisions of the Oklahoma Storage Tank Regulation Act or  
18 rules promulgated pursuant thereto,

19 b. perform tests, install release detection devices, and where appropriate,  
20 monitor the environment to ensure that pollution is not occurring,

21 c. make timely reports to the Commission of pollution, releases, or  
22 testing and sampling events at or above Commission action levels,

- 1           d.     temporarily or permanently cease operation of a storage tank system,  
2                     modify and immediately remove or control any regulated substance  
3                     that is found to be causing pollution when such cessation, removal or  
4                     control is determined to be necessary by the Commission,  
5           e.     provide an alternate or temporary drinking water source to any person  
6                     deprived of drinking water if it is found that such owner or operator is  
7                     responsible for polluting the drinking water source beyond applicable  
8                     drinking water standards, or where no such standard exists, such  
9                     standard as the Department of Environmental Quality shall  
10                    determine,  
11           f.     take full corrective action if such owner or operator is found to be  
12                    responsible for the release, and  
13           g.     take appropriate action to temporarily relocate residents affected by  
14                    the release;

15           15. Establish and enforce administrative penalties for violations pursuant to the  
16     provisions of the Oklahoma Storage Tank Regulation Act, including issuance of field  
17     citations by designated personnel for violations of the Oklahoma Storage Tank  
18     Regulation Act, including but not limited to the authority to close a facility found to pose  
19     an imminent threat to the health, safety or the environment, to be operating a storage  
20     tank system for which permit fees have not been paid, or to be operating a storage tank  
21     system with an outstanding unpaid field citation or fine. Issuance or payment of field  
22     citations shall in no way preclude other enforcement proceedings, administrative

1 penalties, fines or order of the Commission if an owner or operator fails to correct a  
2 violation or abate a threat to health, safety or the environment in a reasonable manner,  
3 as determined by the Commission. If a citation is issued or a facility is closed under the  
4 provisions of the Oklahoma Storage Tank Regulation Act, the owner or operator of the  
5 facility on application to the Commission shall be afforded a hearing within ten (10) days  
6 of filing an application. Any penalties or fines assessed pursuant to this section shall be  
7 established by the Commission by rules promulgated pursuant to the Administrative  
8 Procedures Act;

9 16. Institute and maintain or intervene in any action or proceeding where deemed  
10 necessary by the Commission pursuant to the provisions of the Oklahoma Storage Tank  
11 Regulation Act to protect the health, safety and welfare of any resident of this state or  
12 the environment;

13 17. Prepare an emergency response plan for spills or releases of regulated  
14 substances or review emergency response plans developed outside the Commission;

15 18. Establish a schedule of fees for issuance of any permit required pursuant to the  
16 provisions of the Oklahoma Storage Tank Regulation Act. The fees shall be in an  
17 amount to cover the costs of the Commission in administering the Oklahoma Storage  
18 Tank Regulation Act. Payment of the permitting fees for any storage tank system  
19 required pursuant to the provisions of the Oklahoma Storage Tank Regulation Act or to  
20 rules promulgated pursuant thereto shall prohibit the assessment of additional licensing  
21 or permitting fees for such storage tank systems by any other agency or municipality of  
22 this state;

1           19. Create and implement an internally coordinated management system between  
2 the Storage Tank Regulation Program and the Oklahoma Petroleum Storage Tank  
3 Release Indemnity Program;

4           20. When necessary, economically advantageous, reasonable and integral to a  
5 remediation effort or to establish an alternative water supply, the Petroleum Storage  
6 Tank Division may purchase real property and easements, and if an owner/operator is  
7 unwilling, unknown, unavailable or financially unable, the Petroleum Storage Tank  
8 Division may arrange for the design, construction and operation of an alternative water  
9 supply system conjunctive with a remediation effort and/or the establishment of an  
10 alternative water supply with funds from the Petroleum Storage Tank Indemnity Fund.

11 Provided, no real property shall be purchased by the Commission pursuant to this  
12 paragraph which will impose liability on the Petroleum Storage Tank Indemnity Fund or  
13 on the state for environmental claims or hazards. Disposition of property purchased by  
14 the Petroleum Storage Tank Indemnity Fund shall be made pursuant to the provisions of  
15 Section 129.4 of Title 74 of the Oklahoma Statutes. Proceeds from any sale shall be  
16 deposited to the credit of the Petroleum Storage Tank Indemnity Fund; ~~and~~

17           21. Implement and coordinate an Underground Storage Tank Operator Training  
18 Program pursuant to the provisions of Section 4 of this act, issue annual permits related  
19 thereto and assess any fees necessary for such training and permitting; and

20           22. Exercise all incidental powers as necessary and proper for the administration of  
21 the Oklahoma Storage Tank Regulation Act.

1 SECTION 3. AMENDATORY 17 O.S. 2001, Section 309, as amended by  
2 Section 6, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007, Section 309), is amended to  
3 read as follows:

4 Section 309. A. No owner or operator, employee or agent of such owner or operator,  
5 or transporter shall knowingly allow a release from a storage tank system to occur or  
6 continue to occur without reporting the release to the Corporation Commission within  
7 twenty-four (24) hours upon discovering such a release.

8 B. The owner or operator of a storage tank system shall immediately take all  
9 reasonable corrective actions necessary to prevent a release or a threatened release of  
10 regulated substances from a storage tank system and to abate and remove any such  
11 releases subject to applicable federal and state requirements. The Corporation  
12 Commission shall require that any corrective action taken by a storage tank system  
13 owner or operator or authorized by the Commission shall be in compliance with all  
14 applicable state statutes and rules and federal laws and regulations for the protection of  
15 air quality and water quality and for the transportation and disposal of any waste.

16 C. If there is a release from a storage tank system, the Commission may:

17 1. ~~After notice and hearing pursuant to Section 310 of this title, order~~ Require the  
18 ~~owner or operator to take reasonable and necessary corrective actions; or~~

19 2. ~~Without notice and hearing pursuant to Section 310 of this title, issue~~ Issue an  
20 administrative order stating the existence of an emergency and requiring that such  
21 action be taken as ~~is~~ the Commission deems necessary to meet the emergency. Such  
22 order shall be effective immediately. Any person to whom such an order is directed shall

1 comply with ~~said~~ the order immediately but on application to the Commission shall be  
2 afforded a hearing within ten (10) days after receipt of the administrative order. On the  
3 basis of such hearing, the Commission shall continue such order in effect, revoke it, or  
4 modify it. Any person aggrieved by such order continued after the hearing provided for  
5 in this subsection may appeal to the Supreme Court as provided in Section 318 of Title  
6 75 of the Oklahoma Statutes. Such appeal when docketed shall have priority over all  
7 cases pending on ~~said~~ the docket; and

8 ~~3.~~ 2. Require an owner, operator, or responsible person to submit investigation,  
9 remediation or other corrective action plans to the Petroleum Storage Tank Division of  
10 the Corporation Commission for preapproval prior to initiating such investigation,  
11 remediation, or other corrective action.

12 D. 1. The Commission may take corrective action if:

- 13 a. an owner or operator of the storage tank system cannot be identified,  
14 b. an identified owner or operator cannot or will not comply with the  
15 order issued pursuant to subsection C of this section,  
16 c. an administrative or judicial proceeding on an order issued pursuant to  
17 subsection C of this section is pending and the Commission determines  
18 corrective action is necessary to protect the public health, safety and  
19 welfare or the environment until the administrative or judicial  
20 proceeding is resolved, or  
21 d. the Commission determines that the release constitutes a danger  
22 requiring immediate action to prevent, minimize or mitigate damage to

1 the public health and welfare or the environment. Before taking an  
2 action under this paragraph, the Commission shall make all  
3 reasonable efforts, taking into consideration the urgency of the  
4 situation, to afford an owner or operator notice and hearing to take a  
5 corrective action and notify the owners or occupants of adjacent or  
6 affected real property as specified by Section 310 of this title.

7 2. The owner or operator is liable for the cost of any corrective action taken by the  
8 Commission pursuant to this subsection, including the cost of investigating the release  
9 and administrative and legal expenses, if:

10 a. the owner or operator has failed to take a corrective action ordered by  
11 the Commission and the Commission has taken the corrective action,  
12 or

13 b. the Commission has taken corrective action in an emergency pursuant  
14 to subparagraph d of paragraph 1 of this subsection.

15 3. Reasonable and necessary expenses incurred by the Commission in taking a  
16 corrective action, including costs of investigating a release and administrative and legal  
17 expenses, may be recovered by application to the Commission with notice and hearing  
18 pursuant to Section 311 of this title. The Commission's certification of costs incurred is  
19 prima facie evidence that the costs incurred are reasonable and necessary. The  
20 Commission shall be entitled to apply for and receive payment from the Indemnity Fund  
21 Program on behalf of an eligible person for an eligible release upon any site upon which  
22 the Commission has taken corrective action. Such payments shall be deemed to be

1 reimbursement of the eligible person. Costs incurred that are recovered under this  
2 subsection shall be deposited in the Corporation Commission Storage Tank Regulation  
3 Revolving Fund.

4 E. Any order issued by the Commission pursuant to this section shall not limit the  
5 liability of the owner or operator or both such owner or operator for any injury, damages,  
6 or costs incurred by any person as a result of the release. The owner or operator shall  
7 not avoid any liability, statutory environmental responsibility imposed by ~~this act~~  
8 Section 301 et seq. of this title; or as a result of such release by means of a conveyance of  
9 any right, title or interest in real property; or by any indemnification, hold harmless  
10 agreement, or similar agreement.

11 1. This subsection does not:

- 12 a. prohibit a person who may be liable from entering an agreement by  
13 which the person is insured, held harmless, or indemnified for part or  
14 all of the liability,  
15 b. prohibit the enforcement of an insurance, hold harmless, or  
16 indemnification agreement, or  
17 c. bar a cause of action brought by a person who may be liable or by an  
18 insurer or guarantor, whether by right of subrogation or otherwise.

19 2. Except as otherwise provided by law, if there is more than one person liable,  
20 such persons shall be jointly liable for any injury, damages, or costs.

1 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 319 of Title 17, unless there is created a duplication in numbering,  
3 reads as follows:

4 A. The Corporation Commission is authorized to implement, or contract for, an  
5 Underground Storage Tank Operator Training Program as required to comply with the  
6 provisions of the federal Energy Policy Act of 2005.

7 B. The Commission may develop a training program within their agency or  
8 contract with an associated industry group or any other qualified entity it deems  
9 appropriate to fulfill the requirements of federal law or the provisions of this section.

10 C. Operators of underground storage tanks shall complete a training program  
11 commensurate with their responsibility for the operation of underground storage tanks.  
12 The training program shall be approved by the Commission and encompass three levels  
13 of training as follows:

14 1. Persons having primary responsibility for on-site operation and maintenance of  
15 underground storage tank systems;

16 2. Persons having daily on-site responsibility for the operation and maintenance of  
17 underground storage tank systems; and

18 3. Daily, on-site employees having primary responsibility for addressing  
19 emergencies presented by a spill or release from an underground storage tank.

20 D. Storage tank operators shall demonstrate completion of the training program  
21 required by the Commission to obtain an annual permit for the operation of underground  
22 storage tanks.

1 E. Operators of underground storage tank systems shall repeat the applicable  
2 training if the tank for which they have primary daily on-site management  
3 responsibilities is determined to be out of compliance with a requirement or order of the  
4 Commission.

5 F. Payments for administrative, technical and legal costs incurred in carrying out  
6 the provisions of this section may be paid from monies in the Corporation Commission  
7 Storage Tank Regulation Revolving Fund created in Section 315 of Title 17 of the  
8 Oklahoma Statutes or from the Petroleum Storage Tank Indemnity Fund created in  
9 Section 353 of Title 17 of the Oklahoma Statutes, including the costs of any additional  
10 employees, contracting or increased general operating costs of the Commission which are  
11 attributable to the requirements of this section. The costs shall not be payable from any  
12 monies other than those credited to the Corporation Commission Storage Tank  
13 Regulation Revolving Fund or the Petroleum Storage Tank Indemnity Fund and shall  
14 not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) annually. The  
15 Commission may assess any fees necessary to implement the provisions of this section.

16 G. This section shall be part of and supplemental to the Oklahoma Storage Tank  
17 Regulation Act and the Commission is authorized to promulgate any rules necessary to  
18 comply with the provisions of this section.

19 SECTION 5. AMENDATORY 17 O.S. 2001, Section 365, as last amended by  
20 Section 3, Chapter 109, O.S.L. 2007 (17 O.S. Supp. 2007, Section 365), is amended to  
21 read as follows:

1 Section 365. A. There is hereby created in the State Treasury a fund for the  
2 Corporation Commission to be designated the "Oklahoma Leaking Underground Storage  
3 Tank Trust Fund". The fund shall be a continuing fund, not subject to fiscal year  
4 limitations, and shall consist of loans and grants from the federal government and any  
5 state matching funds required by the federal government with regard to underground  
6 storage tanks.

7 B. There is hereby created in the State Treasury a revolving fund for the  
8 Corporation Commission to be designated the "Oklahoma Leaking Underground Storage  
9 Tank Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year  
10 limitations, and shall consist of monies from public or private sources, and any monies  
11 collected pursuant to the provisions of this section.

12 C. All monies accruing to the credit of the Oklahoma Leaking Underground Storage  
13 Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving  
14 Fund are hereby appropriated and may be budgeted and expended by the Corporation  
15 Commission only for the purpose provided in this section, to best protect human health  
16 and the environment. Expenditures from ~~said~~ the funds shall be made upon warrants  
17 issued by the State Treasurer against claims filed as prescribed by law with the Director  
18 of State Finance for approval and payment.

19 D. The Corporation Commission is hereby given the power and authority to receive,  
20 administer and authorize payments from the Oklahoma Leaking Underground Storage  
21 Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving  
22 Fund. The Commission shall establish separate accounts and subaccounts within the

1 Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking  
2 Underground Storage Tank Revolving Fund deemed necessary to implement the  
3 provisions of this section.

4 ~~E. The Corporation Commission may make expenditures from the Oklahoma~~  
5 ~~Leaking Storage Tank Revolving Fund for payment of costs incurred by any appropriate~~  
6 ~~state agency for corrective actions, enforcement actions and cost recovery actions~~  
7 ~~undertaken as necessary to protect human health and the environment as set out in~~  
8 ~~Subchapter IX of Title 42 of the United States Code.~~

9 F. For the purpose of immediately responding to emergency situations created by  
10 leaking underground storage tanks having potentially critical environmental or public  
11 health or safety impact, the Corporation Commission may take whatever action it deems  
12 necessary without notice or hearing, including the expenditure of monies from either the  
13 Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking  
14 Underground Storage Tank Revolving Fund or from both such funds to promptly respond  
15 to the emergency.

16 ~~G. F.~~ 1. The Corporation Commission shall seek reimbursement from the  
17 responsible person, firm or corporation for all expenditures made from either the  
18 Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking  
19 Underground Storage Tank Revolving Fund or from both such funds. All monies  
20 received by the Corporation Commission as reimbursement or penalties relating to  
21 expenditures made from the Oklahoma Leaking Underground Storage Tank Trust Fund  
22 or Oklahoma Leaking Underground Storage Tank Revolving Fund shall be transferred

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 for deposit to the credit of the Oklahoma Leaking Underground Storage Tank Revolving  
2 Fund. All monies received by the Corporation Commission as reimbursement or  
3 penalties relating to expenditures made from the Oklahoma Corporation Commission  
4 Storage Tank Regulation Revolving Fund shall be transferred for deposit to the  
5 ~~Oklahoma~~ Corporation Commission Storage Tank Regulation Revolving Fund.

6 2. The owner or operator is liable for the cost of the corrective action taken by the  
7 Corporation Commission pursuant to this subsection, including the cost of investigating  
8 the release and administrative and legal expenses, if:

- 9 a. the owner or operator has failed to take a corrective action ordered by  
10 the Commission and the Commission has taken the corrective action,  
11 or
- 12 b. the Administrator has taken corrective action in an emergency.

13 3. Reasonable and necessary expenses incurred by the Commission in taking a  
14 corrective action, including costs of investigating a release and administrative and legal  
15 expenses, may be recovered in an administrative proceeding. The Commission's  
16 certification of expenses is prima facie evidence that the expenses are reasonable and  
17 necessary. Expenses that are recovered under this subsection shall be deposited in the  
18 Oklahoma Leaking Underground Storage Tank Revolving Fund.

19 ~~H. G.~~ Any owner or operator of an underground storage tank who fails to comply  
20 with any order issued by the Corporation Commission for corrective or enforcement  
21 actions may be subject to an administrative penalty not to exceed Twenty-five Thousand  
22 Dollars (\$25,000.00) for each underground tank for each day of violation.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 The administrative penalties assessed and collected by the Corporation Commission  
2 shall be deposited to the Oklahoma Leaking Underground Storage Tank Revolving Fund  
3 to be disbursed by the Commission in support of relevant agency activities.

4 SECTION 6. AMENDATORY 11 O.S. 2001, Section 43-108, is amended to read  
5 as follows:

6 Section 43-108. Whenever the provisions of a statute, local ordinance or regulation  
7 require a greater width or size of yards, courts or other open spaces, or require a lower  
8 height of building or less number of stories, or require a greater percentage of lot to be  
9 left unoccupied, or impose higher standards than any other applicable statute, local  
10 ordinance or regulation, then the provisions of the statute, local ordinance or regulation  
11 which impose higher standards or greater restrictions shall govern. In no event shall  
12 any provision of this article apply to any property of any railway company or terminal  
13 company. As used in this section, "terminal company" shall include a qualified terminal  
14 as defined in Section 500.3 of Title 68 of the Oklahoma Statutes.

15 SECTION 7. This act shall become effective July 1, 2008.

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

19 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TECHNOLOGY, dated  
20 04-08-08 - DO PASS, As Amended.