An Act

ENROLLED HOUSE
BILL NO. 2357

By: Watson of the House

and

Marlatt of the Senate

An Act relating to storage tanks; amending 17 O.S. 2011, Sections 302 and 303, which relate to the Oklahoma Storage Tank Regulation Act; deleting references to hazardous substances in legislative findings; deleting definition of hazardous substance; modifying certain definitions; and providing an effective date.

SUBJECT: Oklahoma Storage Tank Regulation Act

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

SECTION 1. AMENDATORY 17 O.S. 2011, Section 302, is amended to read as follows:

Section 302. The Legislature finds that the release of ~~hazardous substances and~~ petroleum from storage tanks into the surface water, groundwater, air and subsurface soils of this state poses a potential threat to the natural resources, health, safety and welfare of the residents of this state and to the economy of this state.

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

SECTION 2. AMENDATORY 17 O.S. 2011, 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

c. has been rendered permanently unfit for use as determined by the Commission;

2. "Action level" means that the regulated substances have reached the level of contamination;

3. "Active case" means a confirmed release notice has been issued by the Corporation Commission to the owner or operator for the specified location;

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

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

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

7. "Commission" means the Corporation Commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~21.~~ 20. "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, or a violation of the Oklahoma Storage Tank Regulation Act or of a rule promulgated thereunder;

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

a. in the case of a storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, or

b. in the case of a storage tank system in use before November 8, 1984, but no longer in service on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of its use.

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

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

~~24.~~ 23. "Person" means any individual, trust, firm, joint stock company or corporation, limited liability company, partnership,

association, any representative appointed by order of a court, the state, any municipality, county, school district or other political subdivision or agency of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, the United States Government, a federal agency, including a government corporation, or any other legal entity;

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

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

a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App., 1671, et seq.),

b. the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.),

c. the state Hazardous Liquid Transportation System Safety Act, Section 47.1 et seq. of Title 52 of the Oklahoma Statutes, or

d. intrastate pipeline facilities regulated under state law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives the 23rd day of February, 2016.

Presiding Officer of the House of Representatives

Passed the Senate the 18th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th

day of April, 20 16, at 4:46 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 25th

day of April, 20 16, at 1:28 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25

day of April, 20 16, at 2:45 o'clock P. M.

By: Chris Benge