

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1423

By: Lerblance of the Senate

and

Adkins of the House

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9 2ND CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to the Corporation Commission;
11 amending 17 O.S. 2001, Section 303, as last amended
12 by Section 1, Chapter 28, O.S.L. 2006 (17 O.S. Supp.
13 2007, Section 303), which relates to the Oklahoma
14 Storage Tank Regulation Act; modifying definition;
15 amending 17 O.S. 2001, Section 306, as last amended
16 by Section 2, Chapter 435, O.S.L. 2005 (17 O.S. Supp.
17 2007, Section 306), which relates to powers and
18 duties of the Corporation Commission; authorizing the
19 Petroleum Storage Tank Division to provide certain
20 remediation services; amending 17 O.S. 2001, Section
21 309, as amended by Section 6, Chapter 435, O.S.L.
22 2005 (17 O.S. Supp. 2007, Section 309), which relates
23 to storage tank releases; modifying certain notice
24 procedures; updating statutory reference; amending 17
O.S. 2001, Section 352, as last amended by Section
19, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007,
Section 352), which relates to petroleum storage
tanks; modifying certain definition; amending 17 O.S.
2001, Section 354, as last amended by Section 1,
Chapter 175, O.S.L. 2006 (17 O.S. Supp. 2007, Section
354), which relates to certain motor fuel assessment;
modifying distribution of certain monies for certain
purpose; stating limit; authorizing Commission to
develop and implement Underground Storage Tank
Operator Training Program; authorizing contract for
training program; requiring certain participants;
requiring demonstration of completion by required
participants; providing for payments from certain

1 revolving fund; stating limitation; authorizing
2 Commission to set fees and promulgate rules; amending
3 17 O.S. 2001, Section 365, as last amended by Section
4 3, Chapter 109, O.S.L. 2007 (17 O.S. Supp. 2007,
5 Section 365), which relates to the Oklahoma Leaking
6 Underground Storage Tank Revolving Fund; modifying
7 name of fund; and amending 11 O.S. 2001, Section 43-
8 108, which relates to zoning; defining term;
9 providing for codification; providing an effective
10 date; and declaring an emergency.

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

12 SECTION 1. AMENDATORY 17 O.S. 2001, Section 303, as last
13 amended by Section 1, Chapter 28, O.S.L. 2006 (17 O.S. Supp. 2007,
14 Section 303), is amended to read as follows:

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

17 1. "Abandoned system" means a storage tank system which:

- 18 a. has been taken permanently out of service as a storage
19 vessel for any reason or is not intended to be
20 returned to service,
21 b. has been out of service for one (1) year or more prior
22 to April 21, 1989, or
23 c. has been rendered permanently unfit for use as
24 determined by the Commission;

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

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

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

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

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

12 7. "Commission" means the Corporation Commission;

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

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

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

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

24

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

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

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

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

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

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

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

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

24

- 1 a. any substance regulated as a hazardous waste under
- 2 Subtitle C of the federal Solid Waste Disposal Act, 42
- 3 U.S.C., Section 6903, or
- 4 b. any substance regulated as a hazardous waste under the
- 5 Oklahoma Hazardous Waste Management Act.

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

9 20. "New system" means a storage tank system for which the
10 installation or upgrade of the system began on or after December 22,
11 1998;

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

18 22. "Owner" means:

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

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

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

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

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

21 25. "Petroleum" means ~~ethylene glycol-based antifreeze, crude~~
22 ~~oil, crude oil fractions, and refined petroleum fractions, including~~
23 ~~motor fuel, motor fuel with the fuel additive Methyl Tertiary Butyl~~
24 ~~Ether (MTBE), jet fuel, distillate fuel oils, residual fuel oils,~~

1 ~~lubricants, petroleum solvents and used oil which are liquid at~~
2 ~~standard conditions of temperature and pressure (60 degrees~~
3 ~~Fahrenheit and 14.7 pounds per square inch absolute). "Petroleum"~~
4 ~~also means a mixture of petroleum and hazardous substances if the~~
5 ~~amount of the hazardous substances is of a de minimus quantity~~
6 antifreeze, new or used motor oil, gasoline, kerosene, diesel,
7 aviation fuel or blended fuel including, but not limited to,
8 gasoline, diesel, and aviation fuel that is blended with biodiesel,
9 ethanol, Methyl Tertiary Butyl Ether (MTBE) or other additive for
10 purposes of fueling a combustion engine;

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

- 13 a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.
14 App., 1671, et seq.),
- 15 b. the Hazardous Liquid Pipeline Safety Act of 1979 (49
16 U.S.C. 2001, et seq.),
- 17 c. the state Hazardous Liquid Transportation System
18 Safety Act, Section 47.1 et seq. of Title 52 of the
19 Oklahoma Statutes, or
- 20 d. intrastate pipeline facilities regulated under state
21 law;

22 27. "Pollution" means contamination or other alteration of the
23 physical, chemical or biological properties of any natural waters of
24 the state, land surfaces or subsurfaces, or atmosphere when such

1 contamination or alteration will or is likely to create a nuisance
2 or render the waters, land or atmosphere harmful or detrimental or
3 injurious to the public health, safety or welfare or the
4 environment;

5 28. "Regulated substances" means hazardous substances or
6 petroleum which are regulated pursuant to the Oklahoma Storage Tank
7 Regulation Act;

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

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

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

21 32. "Responsible person" means a person other than a petroleum
22 storage tank system owner or operator, such as an adjacent property
23 owner, impacted party, city or political subdivision, that is
24

1 seeking corrective action of real property, and submits to the
2 jurisdiction of the Commission;

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

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

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

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

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

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

23 39. "Waters of the state" means all streams, lakes, ponds,
24 marshes, watercourses, waterways, wells, springs, irrigation

1 systems, drainage systems and all other bodies or accumulations of
2 water, surface and underground, natural or artificial, public or
3 private, which are contained within, flow through, or border upon
4 the State of Oklahoma or any portion thereof; and

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

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

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

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

16 2. Enter at any reasonable time upon any public or private
17 property for the purpose of inspecting and investigating storage
18 tank system monitoring or remediation equipment and taking such
19 samples as may be necessary to determine compliance with the
20 provisions of the Oklahoma Storage Tank Regulation Act, and rules
21 promulgated pursuant thereto;

22 3. Request issuance of an administrative warrant or search
23 warrant as may be necessary by Commission application after notice
24

1 and hearing to allow entry, inspection, testing, sampling, or
2 copying on public or private property;

3 4. Have access to and copy any records required to be
4 maintained pursuant to the provisions of the Oklahoma Storage Tank
5 Regulation Act or rules promulgated pursuant thereto;

6 5. Inspect any equipment, practice or method prior to
7 implementation which is required by the provisions of the Oklahoma
8 Storage Tank Regulation Act or rules promulgated pursuant thereto;

9 6. Have access to and inspect any monitoring stations, samples,
10 or conduct tests to identify any actual or suspected release of a
11 regulated substance;

12 7. Employ or designate personnel to conduct investigations and
13 inspections, to make reports of compliance with the provisions of
14 the Oklahoma Storage Tank Regulation Act and rules promulgated
15 pursuant thereto;

16 8. Within its discretion, report to the district attorney
17 having jurisdiction or to the Attorney General any act committed by
18 an owner, operator or employee of a facility which may constitute a
19 violation of the provisions of the Oklahoma Storage Tank Regulation
20 Act or rules promulgated pursuant thereto;

21 9. Advise, consult, assist, and cooperate with other agencies
22 of this state, the federal government, other states and interstate
23 agencies and with affected groups and political subdivisions to
24

1 further the purposes of the provisions of the Oklahoma Storage Tank
2 Regulation Act;

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

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

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

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

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

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

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

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

1 d. temporarily or permanently cease operation of a
2 storage tank system, modify and immediately remove or
3 control any regulated substance that is found to be
4 causing pollution when such cessation, removal or
5 control is determined to be necessary by the
6 Commission,

7 e. provide an alternate or temporary drinking water
8 source to any person deprived of drinking water if it
9 is found that such owner or operator is responsible
10 for polluting the drinking water source beyond
11 applicable drinking water standards, or where no such
12 standard exists, such standard as the Department of
13 Environmental Quality shall determine,

14 f. take full corrective action if such owner or operator
15 is found to be responsible for the release, and

16 g. take appropriate action to temporarily relocate
17 residents affected by the release;

18 15. Establish and enforce administrative penalties for
19 violations pursuant to the provisions of the Oklahoma Storage Tank
20 Regulation Act, including issuance of field citations by designated
21 personnel for violations of the Oklahoma Storage Tank Regulation
22 Act, including but not limited to the authority to close a facility
23 found to pose an imminent threat to the health, safety or the
24 environment, to be operating a storage tank system for which permit

1 fees have not been paid, or to be operating a storage tank system
2 with an outstanding unpaid field citation or fine. Issuance or
3 payment of field citations shall in no way preclude other
4 enforcement proceedings, administrative penalties, fines or order of
5 the Commission if an owner or operator fails to correct a violation
6 or abate a threat to health, safety or the environment in a
7 reasonable manner, as determined by the Commission. If a citation
8 is issued or a facility is closed under the provisions of the
9 Oklahoma Storage Tank Regulation Act, the owner or operator of the
10 facility on application to the Commission shall be afforded a
11 hearing within ten (10) days of filing an application. Any
12 penalties or fines assessed pursuant to this section shall be
13 established by the Commission by rules promulgated pursuant to the
14 Administrative Procedures Act;

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

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

23 18. Establish a schedule of fees for issuance of any permit
24 required pursuant to the provisions of the Oklahoma Storage Tank

1 Regulation Act. The fees shall be in an amount to cover the costs
2 of the Commission in administering the Oklahoma Storage Tank
3 Regulation Act. Payment of the permitting fees for any storage tank
4 system required pursuant to the provisions of the Oklahoma Storage
5 Tank Regulation Act or to rules promulgated pursuant thereto shall
6 prohibit the assessment of additional licensing or permitting fees
7 for such storage tank systems by any other agency or municipality of
8 this state;

9 19. Create and implement an internally coordinated management
10 system between the Storage Tank Regulation Program and the Oklahoma
11 Petroleum Storage Tank Release Indemnity Program;

12 20. When necessary, economically advantageous, reasonable and
13 integral to a remediation effort or to establish an alternative
14 water supply, the Petroleum Storage Tank Division may purchase real
15 property and easements, and if an owner/operator is unwilling,
16 unknown, unavailable or financially unable, the Petroleum Storage
17 Tank Division may arrange for the design, construction and operation
18 of an alternative water supply system conjunctive with a remediation
19 effort and/or the establishment of an alternative water supply with
20 funds from the Petroleum Storage Tank Indemnity Fund. Provided, no
21 real property shall be purchased by the Commission pursuant to this
22 paragraph which will impose liability on the Petroleum Storage Tank
23 Indemnity Fund or on the state for environmental claims or hazards.
24 Disposition of property purchased by the Petroleum Storage Tank

1 Indemnity Fund shall be made pursuant to the provisions of Section
2 129.4 of Title 74 of the Oklahoma Statutes. Proceeds from any sale
3 shall be deposited to the credit of the Petroleum Storage Tank
4 Indemnity Fund; and

5 21. Implement and coordinate an Underground Storage Tank
6 Operator Training Program pursuant to the provisions of Section 6 of
7 this act, issue annual permits related thereto and assess any fees
8 necessary for such training and permitting; and

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

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

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

19 B. The owner or operator of a storage tank system shall
20 immediately take all reasonable corrective actions necessary to
21 prevent a release or a threatened release of regulated substances
22 from a storage tank system and to abate and remove any such releases
23 subject to applicable federal and state requirements. The
24 Corporation Commission shall require that any corrective action

1 taken by a storage tank system owner or operator or authorized by
2 the Commission shall be in compliance with all applicable state
3 statutes and rules and federal laws and regulations for the
4 protection of air quality and water quality and for the
5 transportation and disposal of any waste.

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

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

11 2. ~~Without notice and hearing pursuant to Section 310 of this~~
12 ~~title, issue~~ Issue an administrative order stating the existence of
13 an emergency and requiring that such action be taken as ~~it~~ the
14 Commission deems necessary to meet the emergency. Such order shall
15 be effective immediately. Any person to whom such an order is
16 directed shall comply with ~~said~~ the order immediately but on
17 application to the Commission shall be afforded a hearing within ten
18 (10) days after receipt of the administrative order. On the basis
19 of such hearing, the Commission shall continue such order in effect,
20 revoke it, or modify it. Any person aggrieved by such order
21 continued after the hearing provided for in this subsection may
22 appeal to the Supreme Court as provided in Section 318 of Title 75
23 of the Oklahoma Statutes. Such appeal when docketed shall have
24 priority over all cases pending on ~~said~~ the docket; and

1 ~~3.~~ 2. Require an owner, operator, or responsible person to
2 submit investigation, remediation or other corrective action plans
3 to the Petroleum Storage Tank Division of the Corporation Commission
4 for preapproval prior to initiating such investigation, remediation,
5 or other corrective action.

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

7 a. an owner or operator of the storage tank system cannot
8 be identified,

9 b. an identified owner or operator cannot or will not
10 comply with the order issued pursuant to subsection C
11 of this section,

12 c. an administrative or judicial proceeding on an order
13 issued pursuant to subsection C of this section is
14 pending and the Commission determines corrective
15 action is necessary to protect the public health,
16 safety and welfare or the environment until the
17 administrative or judicial proceeding is resolved, or

18 d. the Commission determines that the release constitutes
19 a danger requiring immediate action to prevent,
20 minimize or mitigate damage to the public health and
21 welfare or the environment. Before taking an action
22 under this paragraph, the Commission shall make all
23 reasonable efforts, taking into consideration the
24 urgency of the situation, to afford an owner or

1 operator notice and hearing to take a corrective
2 action and notify the owners or occupants of adjacent
3 or affected real property as specified by Section 310
4 of this title.

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

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

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

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

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

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

13 1. This subsection does not:

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

23

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

4 SECTION 4. AMENDATORY 17 O.S. 2001, Section 352, as last
5 amended by Section 19, Chapter 435, O.S.L. 2005 (17 O.S. Supp. 2007,
6 Section 352), is amended to read as follows:

7 Section 352. As used in the Oklahoma Petroleum Storage Tank
8 Release Indemnity Program:

9 1. "Administrator" means the person hired by the Director of
10 the Petroleum Storage Tank Division of the Corporation Commission to
11 administer the Petroleum Storage Tank Indemnity Fund and the
12 Oklahoma Petroleum Storage Tank Release Indemnity Program;

13 2. "Administrative application" means an application for
14 eligibility and reimbursement made to the Petroleum Storage Tank
15 Indemnity Fund by the Director of the Petroleum Storage Tank
16 Division on behalf of an unavailable or unwilling applicant;

17 3. "Assignment of benefits" means a written directive from the
18 applicant of record instructing the Commission to pay reimbursement
19 directly to the named assignee including, but not limited to, an
20 environmental contractor;

21 4. "Assignment of rights" or "limited power of attorney" means
22 a transfer of authority granting the assignee the legal right to act
23 on grantor's behalf on specified matters;

24 5. "Distributor" means:

- 1 a. every person importing or causing to be imported into
2 this state any motor fuel, diesel fuel or blending
3 material for use, distribution, or sale and
4 distribution, or sale and delivery after the same
5 reaches this state. "Distributor" does not mean
6 persons importing motor fuel only in the supply tank
7 of a vehicle originally provided by the manufacturer
8 of the motor vehicle as a container for motor fuel or
9 diesel fuel to propel such motor vehicle, nor does
10 "distributor" mean persons only importing motor fuel,
11 diesel fuel or blending material into the state under
12 circumstances requiring that they be licensed as
13 "Motor Fuel/Diesel Fuel Importers for Use" as defined
14 in ~~subsection (g)~~ paragraph 7 of Section 601 of Title
15 68 of the Oklahoma Statutes and who are actually so
16 licensed,
- 17 b. any person producing, refining, preparing, distilling,
18 blending, manufacturing, or compounding motor fuel or
19 blending material in this state for use, distribution
20 or sale and delivery in this state,
- 21 c. any person within this state producing or collecting
22 what is commonly known as drip, casinghead or natural
23 gasoline,
- 24

- 1 d. any person who has in his or her possession or buys
2 for sale or use motor fuel, diesel fuel or blending
3 material from any person other than a licensed
4 distributor, retailer or dealer,
5 e. any person other than a retailer or dealer who sells
6 motor fuel, diesel fuel or blending material to anyone
7 except a licensed distributor,
8 f. any person who makes bulk sales of motor fuel, diesel
9 fuel or blending material, and
10 g. any other person, including a retailer or dealer, who
11 has filed an application for and has procured a
12 distributor's license in the manner provided by the
13 Oklahoma Motor Fuel/Diesel Fuel Importers for Use Tax
14 Code, Section 601 et seq. of Title 68 of the Oklahoma
15 Statutes;

16 6. "Eligible person" means any:

- 17 a. owner or operator of a storage tank system who has
18 incurred liability as a result of an eligible release,
19 and who meets the requirements specified in Section
20 356 of this title, or
21 b. person who on or after November 8, 1984, purchases
22 property on which a storage tank system is located if:
23 (1) the storage tank system was located on the
24 property on November 8, 1984,

1 (2) such person could not have known that such
2 storage tank system existed. The burden shall be
3 upon such purchaser to show that such purchaser
4 did not know or should not have known of the
5 existence of such storage tank system,

6 (3) the owner or operator of the storage tank system
7 responsible for the system cannot be determined
8 by the Corporation Commission or the
9 Administrator, or the owner or operator of the
10 storage tank system responsible for the system is
11 incapable, in the judgment of the Corporation
12 Commission, of properly carrying out any
13 necessary corrective action, and

14 (4) either funds are unavailable from the Oklahoma
15 Leaking Underground Storage Tank Trust Fund or
16 the storage tank system is not eligible for
17 corrective action taken pursuant to Section 365
18 of this title,

19 c. person who acquired ownership of a tank through
20 inheritance as denoted in an Order Allowing Final
21 Account and Determination of Heirship and Decree of
22 Final Distribution or is responsible for a release by
23 reason of owning the real property through inheritance
24 within which a tank or a release is or was located if:

- 1 (1) the storage tank system of the release was
2 located on the real property on November 8, 1984,
3 (2) the operator of the storage tank system
4 responsible for the system or responsible for a
5 release cannot be determined or found by the
6 Corporation Commission, or the operator of the
7 storage tank system responsible for the system or
8 responsible for the release is incapable, in the
9 judgment of the Corporation Commission, of
10 properly carrying out any necessary corrective
11 action,
12 (3) either funds are unavailable from the Oklahoma
13 Leaking Underground Storage Tank Trust Fund or
14 the storage tank system or release is not
15 eligible for corrective action taken pursuant to
16 Section 365 of this title,
17 (4) the person did not participate or was not
18 responsible in any manner, directly or
19 indirectly, in the management of the storage tank
20 system or for the release and otherwise is not
21 engaged in petroleum production, refining or
22 marketing, and
23 (5) the person meets the requirements specified in
24 Section 356 of this title, or

1 d. person who is an impacted party, adjacent owner or
2 town, city or political subdivision as determined by
3 the Commission and who willingly submits to the
4 regulations of the Commission governing petroleum
5 storage tank system owners, operators or agents;

6 7. "Disbursements" means funds expended or encumbered which are
7 attributable to a particular petroleum storage tank system release
8 or case;

9 8. "Eligible release" means a release for which allowable
10 costs, as determined by the Administrator, are reimbursable to or on
11 behalf of an eligible person;

12 9. "Impacted party" means an owner whose property has been
13 impacted by a release from an on-site or off-site petroleum storage
14 tank which the impacted person did not own or operate and for which
15 the impacted person has had no responsibility under Commission
16 rules. An impacted party may apply for an eligibility determination
17 on reimbursement from the Petroleum Storage Tank Indemnity Fund. An
18 impacted party is not subject to the Petroleum Storage Tank
19 Indemnity Fund deductible;

20 10. "Indemnity Fund" means the Petroleum Storage Tank Indemnity
21 Fund;

22 11. "Indemnity Fund Program" means the Oklahoma Petroleum
23 Storage Tank Release Indemnity Program established to administer the
24 Indemnity Fund;

1 12. "Investigation" means activities taken to identify,
2 confirm, monitor or delineate the physical extent of a release and
3 which result in the selection of an appropriate means to remediate a
4 release and specific design criteria for such remediation upon which
5 competitive bids may be reasonably based;

6 13. "Maintenance level" means the minimum balance of the
7 Indemnity Fund to be maintained and below which the Indemnity Fund
8 balance will fall when the balance of the Indemnity Fund is below
9 the dollar amount of disbursements from the Indemnity Fund for the
10 payment of claims during the preceding six (6) months plus Five
11 Million Dollars (\$5,000,000.00);

12 14. "Owner" means:

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

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

24

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

5 15. "Motor fuel, ~~diesel fuel and blending materials~~" ~~have~~ has
6 the same meaning as ~~those terms are~~ the term is defined by Section
7 ~~501~~ 500.3 of Title 68 of the Oklahoma Statutes;

8 16. "Pay-for-performance" means a process by which an
9 environmental consultant guarantees, by executing a contract
10 pursuant to the provisions of this paragraph, that a release of a
11 regulated substance will be remediated to levels agreed to by the
12 Commission, the eligible person and the consultant. Such levels
13 must be protective of human health, safety and the environment. The
14 performance-based process encompasses several steps including, but
15 not limited to, the development of a contract signed by an
16 officer/owner of the environmental consultant, the eligible person
17 and the Administrator of the Petroleum Storage Tank Indemnity Fund.
18 The contract shall contain any agreed upon reasonable price for the
19 work to be performed. Scheduled payments shall be distributed only
20 as performance-based goals are attained;

21 17. "Person" means any individual, trust, firm, joint stock
22 company or corporation, corporation, limited liability company,
23 partnership, association, any representative appointed by order of
24 the court, municipality, county, school district, or other political

1 subdivision of the state, or any interstate body. The term also
2 includes a consortium, a joint venture, a commercial entity, or any
3 other legal entity. The term also refers to any agency of the State
4 of Oklahoma which purchases property containing storage tanks from
5 an owner or operator qualified to access the Indemnity Fund and upon
6 which an eligible release has occurred prior to the agency acquiring
7 the property;

8 18. "Purchase order" means a performance-based agreement
9 negotiated between an environmental consultant and the Petroleum
10 Storage Tank Division stipulating a scope of work to be performed by
11 a target date, for which the Petroleum Storage Tank Indemnity Fund
12 will reimburse a specified amount;

13 19. "Reimbursement" means either:

14 a. repayment of an approved claim to an eligible person
15 for allowable costs resulting from an eligible
16 release, or

17 b. payment of an approved claim submitted on behalf of an
18 eligible person for incurred allowable costs resulting
19 from an eligible release;

20 20. "Release" means any spilling, overfilling, leaching,
21 emitting, discharging, escaping, or unintentional disposing of the
22 petroleum from a storage tank system into the environment of the
23 state. The term release includes but is not limited to suspected
24 releases of regulated substance from a storage tank system,

1 identified as a result of sampling, testing or monitoring results,
2 or identified in any similarly reliable manner;

3 21. "Sale" means every gallon of motor fuel, diesel fuel, or
4 blending materials sold, or stored and distributed, or withdrawn
5 from storage, within the state, for sale or use. No gallon of motor
6 fuel, diesel fuel, or blending materials shall be the basis more
7 than once of the assessment imposed by Section 354 of this title;

8 22. "Storage tank" or "storage tank system" means a storage
9 system as such term is defined by the Oklahoma Storage Tank
10 Regulation Act; and

11 23. "Tax Commission" means the Oklahoma Tax Commission.

12 SECTION 5. AMENDATORY 17 O.S. 2001, Section 354, as last
13 amended by Section 1, Chapter 175, O.S.L. 2006 (17 O.S. Supp. 2007,
14 Section 354), is amended to read as follows:

15 Section 354. A. Except as otherwise provided by this section,
16 there shall be an assessment of one cent (\$0.01) per gallon upon the
17 sale of each gallon of motor fuel, ~~diesel fuel and blending~~
18 ~~materials~~ used or consumed in this state. The assessment imposed
19 pursuant to the provisions of this section shall be for the purposes
20 of providing revenue to:

21 1. The Oklahoma Corporation Commission Revolving Fund pursuant
22 to paragraph 1 of subsection C of this section;

23 2. The Petroleum Storage Tank Indemnity Fund pursuant to
24 paragraphs 3 and 4 of subsection C of this section;

1 3. The State Transportation Fund pursuant to subparagraph b of
2 paragraph 5 of subsection C of this section;

3 4. The Corporation Commission Storage Tank Regulation Revolving
4 Fund pursuant to subparagraph a of paragraph 5 of subsection C of
5 this section;

6 5. The Department of Environmental Quality Revolving Fund
7 pursuant to paragraph 2 of subsection C of this section; and

8 6. The Higher Education Facilities Revolving Fund pursuant to
9 paragraph 3 of subsection C of this section.

10 The assessment shall be imposed at the time of the sale of the
11 motor fuel, ~~diesel fuel and blending materials~~ and shall be
12 precollected and remitted to the Oklahoma Tax Commission in
13 accordance with Section 500.1 et seq. of Title 68 of the Oklahoma
14 Statutes and as provided by Section 355 of this title.

15 B. 1. Exempt from the assessment imposed pursuant to
16 subsection A of this section are:

- 17 a. the state government,
- 18 b. the federal government,
- 19 c. class I and class II railroads, and
- 20 d. sales for exportation outside of this state by a
21 licensed exporter.

22 2. Exempt from the assessment imposed for purposes specified in
23 paragraph 3 of subsection A of this section are sales of:

24

- 1 a. motor fuel, ~~diesel fuel and blending materials~~ used
2 solely and exclusively in district-owned or leased
3 public school buses, FFA and 4-H club trucks for the
4 purposes of legally transporting public school
5 children, or in the operation of vehicles used in
6 driver training,
- 7 b. motor fuels, ~~diesel fuels and blending materials~~ used
8 solely and exclusively to propel motor vehicles on the
9 public roads and highways of this state when leased or
10 owned and being operated for the sole benefit of a
11 county, city, town, volunteer fire department with a
12 state certification and rating, rural electric
13 cooperative, rural water and sewer district, rural
14 ambulance service district, or federally recognized
15 Indian tribe as specified by Section 500.10 of Title
16 68 of the Oklahoma Statutes,
- 17 c. motor fuel, ~~diesel fuel and blending materials~~ to
18 counties and cities and towns,
- 19 d. diesel fuel for off-road purposes specified by Section
20 500.10 of Title 68 of the Oklahoma Statutes,
- 21 e. motor fuel, ~~diesel fuel and blending materials~~ used
22 for agricultural purposes specified by Section 500.10
23 of Title 68 of the Oklahoma Statutes, and
24

1 f. motor fuel, ~~diesel fuel and blending materials~~ used in
2 aircraft or in aircraft engines pursuant to Section
3 500.10 of Title 68 of the Oklahoma Statutes.

4 C. The assessment imposed by subsection A of this section shall
5 be distributed in the following manner:

6 1. The first One Million Dollars (\$1,000,000.00) collected
7 during each fiscal year shall be deposited into the ~~Oklahoma~~
8 Corporation Commission Revolving Fund created in Section 180.7 of
9 this title;

10 2. After deduction of the amount required pursuant to paragraph
11 1 of this subsection, eight percent (8%) of the remainder of the
12 revenue collected during each fiscal year shall be deposited into
13 the Department of Environmental Quality Revolving Fund created in
14 Section 2-3-401 of Title 27A of the Oklahoma Statutes;

15 3. Until the total amount deposited since July 1, ~~2002~~ 2008, in
16 the ~~Higher Education Facilities Revolving~~ State Transportation Fund
17 totals ~~Thirty-eight Million Dollars (\$38,000,000.00) twenty-five~~
18 ~~percent (25%)~~ Fifty-one Million Dollars (\$51,000,000.00), Five
19 Hundred Thousand Dollars (\$500,000.00) per month of all revenue from
20 the assessment received over the amount required by paragraphs 1 and
21 2 of this subsection shall be deposited in the ~~Higher Education~~
22 ~~Facilities~~ Weigh Station Improvement Revolving Fund, created in
23 Section 1167 of Title 47 of the Oklahoma Statutes and ~~seventy-five~~
24 ~~percent (75%) of all revenue from the assessment received over the~~

1 ~~amount required by paragraphs 1 and 2 of this subsection~~ shall be
2 ~~deposited in the Petroleum Storage Tank Indemnity Fund created in~~
3 ~~Section 353 of this title~~ used solely for the purpose of
4 constructing weigh stations;

5 4. After the total amount deposited in the ~~Higher Education~~
6 ~~Facilities~~ Weigh Station Improvement Revolving Fund totals ~~Thirty-~~
7 ~~eight Million Dollars (\$38,000,000.00)~~ Fifty-one Million Dollars
8 (\$51,000,000.00), any revenue from the assessment received over the
9 amounts required in paragraphs 1 and 2 of this subsection, shall be
10 deposited in the Petroleum Storage Tank Indemnity Fund created in
11 Section 353 of this title in amounts necessary to maintain the
12 maintenance level of the Indemnity Fund pursuant to subsection D of
13 this section; and

14 5. The balance of any revenue from the assessment remaining
15 above the amount required in paragraphs 1 through 4 of this
16 subsection shall be deposited as follows:

- 17 a. the first One Million Dollars (\$1,000,000.00)
18 collected during each fiscal year shall be deposited
19 in the Corporation Commission Storage Tank Regulation
20 Revolving Fund for the purpose of implementing the
21 provisions of the Oklahoma Storage Tank Regulation Act
22 and the rules promulgated thereunder, and
- 23 b. the balance of the monies collected during each fiscal
24 year shall be deposited in the State Transportation

1 Fund and shall be used solely for the purpose of
2 matching Federal-Aid funds for the construction of
3 highways and roads in this state.

4 D. 1. If at any time the Petroleum Storage Tank Indemnity Fund
5 falls below the required maintenance level on or before December 31,
6 2012, the Administrator shall notify the Tax Commission that the
7 Indemnity Fund has fallen below the required maintenance level and
8 that the assessment is to be deposited into the Indemnity Fund for
9 at least three (3) calendar months pursuant to the provisions of
10 paragraph 2 of this subsection.

11 2. At least fifteen (15) days prior to the calendar month in
12 which the assessment is to be collected for credit to the Indemnity
13 Fund, the Tax Commission, upon notification by the Administrator
14 that the Indemnity Fund has fallen below the required maintenance
15 level, shall notify the suppliers, licensed importers or other
16 appropriate persons that the assessment is being imposed for
17 purposes of maintaining the Indemnity Fund. The notice shall
18 include a date certain upon which to begin collecting the assessment
19 for credit to the Indemnity Fund and a date certain for ending the
20 assessment for credit to the Indemnity Fund. Upon notice by the Tax
21 Commission that the assessment imposed is for credit to the
22 Indemnity Fund, the supplier, licensed importer or other appropriate
23 person shall also assess, for the specified period required by the
24 Tax Commission, the sales of:

- 1 a. motor fuel, ~~diesel fuel and blending materials~~ used
2 solely and exclusively in district-owned or leased
3 public school buses, FFA and 4-H Club trucks for the
4 purposes of legally transporting public school
5 children or in the operation of vehicles used in
6 driver's training,
- 7 b. motor fuels, ~~diesel fuels and blending materials~~ used
8 solely and exclusively to propel motor vehicles on the
9 public roads and highways of the state when leased or
10 owned and being operated for the sole benefit of a
11 county, city or town, volunteer fire department with a
12 state certification and rating, rural electric
13 cooperative, rural water and sewer district, rural
14 ambulance service district, or federally recognized
15 Indian tribe as specified by Section 500.10 of Title
16 68 of the Oklahoma Statutes,
- 17 c. motor fuel, ~~diesel fuel and blending materials~~ to
18 counties and cities and towns,
- 19 d. diesel fuel for off-road purposes specified by Section
20 500.10 of Title 68 of the Oklahoma Statutes,
- 21 e. motor fuel, ~~diesel fuel and blending materials~~ used
22 for agricultural purposes specified by Section 500.10
23 of Title 68 of the Oklahoma Statutes, and
24

1 f. motor fuel, ~~diesel fuel and blending materials~~ used in
2 aircraft and aircraft engines pursuant to Section
3 500.10 of Title 68 of the Oklahoma Statutes.

4 3. After the collection period required by this subsection has
5 expired, the revenue collected from the assessment shall be again
6 deposited in the Corporation Commission Storage Tank Regulation
7 Revolving Fund and the State Transportation Fund as provided in
8 paragraph 5 of subsection C of this section.

9 SECTION 6. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 319 of Title 17, unless there is
11 created a duplication in numbering, reads as follows:

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

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

20 C. Operators of underground storage tanks shall complete a
21 training program commensurate with their responsibility for the
22 operation of underground storage tanks. The training program shall
23 be approved by the Commission and encompass training for persons
24

1 with three levels of responsibility for storage tank operation as
2 follows:

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

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

7 3. Persons with daily, on-site primary responsibility for
8 addressing emergencies presented by a spill or release from an
9 underground storage tank.

10 D. Storage tank operators shall be required to complete the
11 training program required by the Commission to obtain an annual
12 permit for the operation of underground storage tanks.

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

17 F. Payments for administrative, technical and legal costs
18 incurred in carrying out the provisions of this section shall not
19 exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) annually and
20 may only be paid from monies in the Corporation Commission Storage
21 Tank Regulation Revolving Fund created in Section 315 of Title 17 of
22 the Oklahoma Statutes or from the Petroleum Storage Tank Indemnity
23 Fund created in Section 353 of Title 17 of the Oklahoma Statutes,
24 including the costs of any additional employees, contracting or

1 increased general operating costs of the Commission which are
2 attributable to the requirements of this section. The Commission
3 may assess any fees necessary to implement the provisions of this
4 section.

5 G. The Commission is authorized to promulgate any rules
6 necessary to comply with the provisions of this section.

7 SECTION 7. AMENDATORY 17 O.S. 2001, Section 365, as last
8 amended by Section 3, Chapter 109, O.S.L. 2007 (17 O.S. Supp. 2007,
9 Section 365), is amended to read as follows:

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

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

23 C. All monies accruing to the credit of the Oklahoma Leaking
24 Underground Storage Tank Trust Fund and the Oklahoma Leaking

1 Underground Storage Tank Revolving Fund are hereby appropriated and
2 may be budgeted and expended by the Corporation Commission only for
3 the purpose provided in this section, to best protect human health
4 and the environment. Expenditures from ~~said~~ the funds shall be made
5 upon warrants issued by the State Treasurer against claims filed as
6 prescribed by law with the Director of State Finance for approval
7 and payment.

8 D. The Corporation Commission is hereby given the power and
9 authority to receive, administer and authorize payments from the
10 Oklahoma Leaking Underground Storage Tank Trust Fund and the
11 Oklahoma Leaking Underground Storage Tank Revolving Fund. The
12 Commission shall establish separate accounts and subaccounts within
13 the Oklahoma Leaking Underground Storage Tank Trust Fund and the
14 Oklahoma Leaking Underground Storage Tank Revolving Fund deemed
15 necessary to implement the provisions of this section.

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

22 F. For the purpose of immediately responding to emergency
23 situations created by leaking underground storage tanks having
24 potentially critical environmental or public health or safety

1 impact, the Corporation Commission may take whatever action it deems
2 necessary without notice or hearing, including the expenditure of
3 monies from either the Oklahoma Leaking Underground Storage Tank
4 Trust Fund or the Oklahoma Leaking Underground Storage Tank
5 Revolving Fund or from both such funds to promptly respond to the
6 emergency.

7 G. F. 1. The Corporation Commission shall seek reimbursement
8 from the responsible person, firm or corporation for all
9 expenditures made from either the Oklahoma Leaking Underground
10 Storage Tank Trust Fund or the Oklahoma Leaking Underground Storage
11 Tank Revolving Fund or from both such funds. All monies received by
12 the Corporation Commission as reimbursement or penalties relating to
13 expenditures made from the Oklahoma Leaking Underground Storage Tank
14 Trust Fund or Oklahoma Leaking Underground Storage Tank Revolving
15 Fund shall be transferred for deposit to the credit of the Oklahoma
16 Leaking Underground Storage Tank Revolving Fund. All monies
17 received by the Corporation Commission as reimbursement or penalties
18 relating to expenditures made from the Oklahoma Corporation
19 Commission Storage Tank Regulation Revolving Fund shall be
20 transferred for deposit to the ~~Oklahoma~~ Corporation Commission
21 Storage Tank Regulation Revolving Fund.

22 2. The owner or operator is liable for the cost of the
23 corrective action taken by the Corporation Commission pursuant to
24

1 this subsection, including the cost of investigating the release and
2 administrative and legal expenses, if:

3 a. the owner or operator has failed to take a corrective
4 action ordered by the Commission and the Commission
5 has taken the corrective action, or

6 b. the Administrator has taken corrective action in an
7 emergency.

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

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

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

1 SECTION 8. AMENDATORY 11 O.S. 2001, Section 43-108, is
2 amended to read as follows:

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

15 SECTION 9. This act shall become effective July 1, 2008.

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

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