

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2151

By: Pfeiffer of the House

and

Rader of the Senate

5
6
7
8
9 An Act relating to the Oklahoma Corporation
10 Commission; amending 17 O.S. 2011, Sections 301, as
11 amended by Section 1, Chapter 27, O.S.L. 2018, 302,
12 as last amended by Section 2, Chapter 27, O.S.L.
13 2018, 303, as last amended by Section 3, Chapter 27,
14 O.S.L. 2018, 306, as amended by Section 6, Chapter
15 27, O.S.L. 2018, 308, as amended by Section 8,
16 Chapter 27, O.S.L. 2018, 309, as amended by Section
17 10, Chapter 27, O.S.L. 2018, 311, as amended by
18 Section 13, Chapter 27, O.S.L. 2018, 322, as last
19 amended by Section 21, Chapter 27, O.S.L. 2018, 324,
20 as amended by Section 22, Chapter 27, O.S.L. 2018,
21 325, as amended by Section 23, Chapter 27, O.S.L.
22 2018 and Sections 24, 25, 26, 36, 39, 43, 45, 51, 52,
23 53, 54, 55, 56 and 57, Chapter 27, O.S.L. 2018 (17
24 O.S. Supp. 2018, Sections 301, 302, 303, 306, 308,
309, 311, 322, 324, 325, 327, 327.1, 327.2, 341.3,
344, 346.2, 346.4, 348.3, 348.4, 348.5, 348.6, 348.7,
348.8 and 348.9), which relate to programs related to
the underground storage programs; modifying statutory
references; modifying references to certain funds;
providing for misdemeanor fine and penalty; providing
an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 17 O.S. 2011, Section 301, as
2 amended by Section 1, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
3 Section 301), is amended to read as follows:

4 Section 301. A. ~~This act~~ Sections 301 through 348.9 of this
5 title shall be known and may be cited as the "Oklahoma Petroleum
6 Storage Tank Consolidation Act".

7 B. For the purposes of implementing the Oklahoma Petroleum
8 Storage Tank Consolidation Act, there is hereby recognized the
9 Oklahoma Petroleum Storage Tank Program administered by the
10 Petroleum Storage Tank Division of the Oklahoma Corporation
11 Commission.

12 C. The Petroleum Storage Tank Division shall maintain, operate
13 and administer the Oklahoma Petroleum Storage Tank Program and shall
14 include, but not be limited to, regulatory compliance activities,
15 enforcement of rules promulgated to implement regulatory programs,
16 technical review, development and approval of corrective action
17 plans and determinations that remediation of contaminated sites is
18 complete.

19 D. The Petroleum Storage Tank Division shall maintain, operate
20 and administer the Petroleum Storage Tank Indemnity Fund (Indemnity
21 Fund) and shall include, but not be limited to, processing,
22 reviewing and paying claims for corrective action costs resulting
23 from a release of regulated substances and mitigate environmental,
24 health and safety threats to the public. The Administrator of the

1 Indemnity Fund shall maintain, operate and administer the Indemnity
2 Fund, and process, review and pay claims to those individuals deemed
3 eligible for reimbursement for corrective action at eligible
4 petroleum release sites.

5 E. The Petroleum Storage Tank Division shall maintain, operate
6 and administer an inspection program for facilities that store or
7 dispense Commission-regulated substances for the purpose of
8 determining whether such products comply with the specifications,
9 requirements, rules and orders of the Corporation Commission and the
10 laws of the state.

11 F. The Petroleum Storage Tank Division shall maintain, operate
12 and administer a program for the regulation of antifreeze sold or
13 held with the intent to sell within the state for the purpose of
14 determining whether such products comply with the specifications,
15 requirements, rules and orders of the Corporation Commission and the
16 laws of the state.

17 SECTION 2. AMENDATORY 17 O.S. 2011, Section 302, as last
18 amended by Section 2, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
19 Section 302), is amended to read as follows:

20 Section 302. A. The Legislature finds that the release of
21 regulated substances from storage tanks into the surface water,
22 groundwater, air and subsurface soils of this state poses a
23 potential threat to the environment, health, safety and welfare of
24 the residents of this state.

1 Therefore the Legislature declares it is the public policy of
2 this state to protect the public health, safety, welfare, and the
3 environment from the potential harmful effects of storage tanks used
4 to store regulated substances. The Legislature acknowledges that
5 certain statutory enactments regarding petroleum storage tank
6 systems are set forth in other titles. To that extent and to
7 effectuate consolidation, storage tank system inspections and the
8 regulation of antifreeze are included in the Oklahoma Petroleum
9 Storage Tank Consolidation Act. In order to implement this policy,
10 it is the intent of the Legislature to consolidate programs for the
11 regulation of storage tank systems, antifreeze, inspections and
12 Indemnity Fund compensation for eligible petroleum storage tank
13 releases; and that the regulation of spills and releases from
14 petroleum storage tanks, oversight of petroleum storage tank
15 environmental corrective action, and the reimbursement of claims for
16 costs incurred for petroleum storage tank environmental corrective
17 action be administered by the Oklahoma Corporation Commission
18 Petroleum Storage Tank Division.

19 B. The purpose of the Oklahoma Petroleum Storage Tank
20 Consolidation Act is to provide for the administration of the
21 various programs within the Oklahoma Corporation Commission
22 regulating the release or spilling of regulated substances from
23 petroleum storage tanks and to utilize financial resources for
24 petroleum storage regulatory services, administration and

1 reimbursement of claims for environmental corrective action by the
2 Petroleum Storage Tank Indemnity Fund.

3 C. The provisions of this act shall be applicable to all
4 current, pending, past and future contracts, claims and cases within
5 the jurisdiction of the Petroleum Storage Tank Division; provided,
6 that this subsection shall not apply to, nor be construed to
7 authorize or permit the reopening or review of, the underlying claim
8 or claims of any cases which were formally settled pursuant to a
9 formal settlement agreement or which a final order was entered by
10 the Corporation Commission. Further, the provisions of this act
11 shall not change or modify the terms of purchase order agreements
12 entered into prior to the effective date of this act.

13 D. In addition, to provide that petroleum storage tank
14 regulatory concerns of industry and the public shall be addressed in
15 an expedient manner, the Legislature further finds that:

16 1. Significant quantities of regulated substances are being
17 stored in storage tank systems in this state;

18 2. Spills, leaks and other releases of regulated substances
19 from such storage tank systems have occurred, are occurring and will
20 continue to occur;

21 3. Such releases often pose a significant threat to the public
22 health and safety, the quality of the water and other natural
23 resources in this state;

24

1 4. Where contamination has occurred, corrective action measures
2 have often been delayed for long periods while determination as to
3 the liability and extent of liability are made;

4 5. Such delays result in the continuation and intensification
5 of the threat to the public health, safety and welfare, in greater
6 damage to the environment, and in significantly higher costs to
7 contain and remove the contamination;

8 6. Adequate financial resources must be readily available to
9 enable owners, operators and other persons to take the corrective
10 action necessary to investigate and, if necessary, remediate such
11 contaminated sites; and

12 7. Adequate financial resources shall be provided by the
13 petroleum storage tank program established by the Petroleum Storage
14 Tank Indemnity Fund and funded by an assessment on the sale of motor
15 fuel, diesel fuel and blending materials in this state by a
16 distributor.

17 E. The Legislature declares that, in order to provide for the
18 investigation and, if necessary, remediation of as many contaminated
19 sites resulting from releases of regulated substances from storage
20 tank systems as soon as possible, any person eligible for Indemnity
21 Fund reimbursement pursuant to the provisions of this act shall be
22 compensated for certain allowable costs incurred in connection with
23 corrective action, subject to the conditions specified by ~~this act~~
24 Sections 301 through 348.9 of this title.

1 SECTION 3. AMENDATORY 17 O.S. 2011, Section 303, as last
2 amended by Section 3, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
3 Section 303), is amended to read as follows:

4 Section 303. As used in the Oklahoma Petroleum Storage Tank
5 Consolidation Act:

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

7 a. has been taken permanently out of service as a storage
8 vessel for any reason or is not intended to be
9 returned to service,

10 b. has been out of service for one (1) year or more prior
11 to April 21, 1989, or

12 c. has been rendered permanently unfit for use as
13 determined by the Commission after notice and hearing;

14 2. "Administrator" means the person hired by the Director of
15 the Petroleum Storage Tank Division of the Corporation Commission to
16 administer the Indemnity Fund;

17 3. "Administrative application" means an application and notice
18 of hearing filed by the Director of the Petroleum Storage Tank
19 Division for a judicial determination of any question regarding the
20 administration of the regulatory, Indemnity Fund or inspection
21 program of the Petroleum Storage Tank Division;

22 4. "Assignment of benefits" means a written directive from the
23 applicant of record instructing the Commission to pay allowable
24

1 costs incurred directly to the named assignee including, but not
2 limited to, an environmental consultant;

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

6 6. "Biodiesel" for the purpose of prescribing specifications
7 for the quality of biodiesel shall mean a fuel comprised of mono-
8 alkyl esters of long chain fatty acids derived from vegetable oils
9 or animal fats, designated as B100, and meeting the requirements of
10 the American Society for Testing and Materials (ASTM) D6751
11 standards. A biodiesel blend is a blend of biodiesel fuels meeting
12 the ASTM D6751 standards with a petroleum-based diesel fuel, which
13 is designated "Bxx", with "xx" representing the volume percentage of
14 biodiesel fuel in the blend;

15 7. "Commission" means the Corporation Commission;

16 8. "Confirmed release" means a level of concentration of
17 chemicals of concern that may be sufficient to cause adverse effects
18 upon human health or the environment or cause a nuisance;

19 9. "Contaminants" or "contamination" means the presence of
20 Commission-regulated substances in the environment;

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

24

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

3 12. "Distributor" means:

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

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

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

21 14. "Eligible person" means:

- 22 a. any owner or operator of a storage tank system who has
23 incurred liability as a result of an eligible release,
24

1 and who meets the requirements specified in Section ~~27~~
2 327.3 of this ~~act~~ title,

3 b. any person who on or after November 8, 1984, purchases
4 or acquires property by any means on which a storage
5 tank system is located if:

6 (1) the storage tank system was located on the
7 property on November 8, 1984,

8 (2) such person could not have known that such
9 storage tank system existed. The burden shall be
10 upon such purchaser to show that such purchaser
11 did not know or should not have known of the
12 existence of such storage tank system,

13 (3) the owner or operator of the storage tank system
14 responsible for the system cannot be determined
15 by the Corporation Commission or the Indemnity
16 Fund Administrator, or the owner or operator of
17 the storage tank system responsible for the
18 system is incapable, in the judgment of the
19 Corporation Commission, of properly carrying out
20 any necessary corrective action taken pursuant to
21 Section ~~30~~ 309 of this ~~act~~ title, and

22 (4) either funds are unavailable from the Oklahoma
23 Leaking Underground Storage Tank Trust (LUST
24 Trust) Fund or the ~~underground~~ storage tank

1 system is not eligible for corrective action
2 taken pursuant to Section ~~30~~ 328 of this ~~act~~
3 title,

4 c. any person who acquired ownership of a tank system
5 through inheritance or other means or is responsible
6 for a release by reason of owning the real property
7 within which a tank or a release is or was located if:

8 (1) the storage tank system of the release was
9 located on the real property on November 8, 1984,

10 (2) the operator of the storage tank system
11 responsible for the system or responsible for a
12 release cannot be determined or found by the
13 Corporation Commission, or the operator of the
14 storage tank system responsible for the system or
15 responsible for the release is incapable, in the
16 judgment of the Corporation Commission, of
17 properly carrying out any necessary corrective
18 action,

19 (3) either funds are unavailable from the LUST Trust
20 Fund or the ~~underground~~ storage tank system or
21 release is not eligible for corrective action
22 taken pursuant to Section ~~30~~ 328 of this ~~act~~
23 title,

24

1 (4) the person did not participate or was not
2 responsible in any manner, directly or
3 indirectly, in the management of the storage tank
4 system or for the release and otherwise is not
5 engaged in petroleum production, refining or
6 marketing, and

7 (5) the person meets the requirements specified in
8 Section ~~27~~ 327.3 of this ~~act~~ title, or

9 (d) any person who is an impacted party, adjacent owner or
10 town, city or political subdivision as determined by
11 the Commission and who willingly submits to the
12 regulations of the Commission governing petroleum
13 storage tank system owners, operators or agents;

14 15. "Eligible release" means a release of regulated substances
15 for which allowable costs, as determined by the Indemnity Fund
16 Administrator, are reimbursable to or on behalf of an eligible
17 person;

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

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

24

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

3 19. "Impacted party" means an owner whose property has been
4 impacted by a release from an on-site or off-site petroleum storage
5 tank system which the impacted person did not own or operate and for
6 which the impacted person has had no responsibility under Commission
7 rules. An impacted party may apply for an eligibility determination
8 for reimbursement from the Indemnity Fund. An impacted party is not
9 subject to the Indemnity Fund co-pay;

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

12 21. "Investigation" means activities taken to identify,
13 confirm, monitor or delineate the physical extent of a release;

14 22. "Maintenance level" means the minimum balance of the
15 Indemnity Fund to be maintained and below which the Indemnity Fund
16 balance will fall when the balance of the Indemnity Fund is below
17 the dollar amount of disbursements from the Indemnity Fund for the
18 payment of claims during the preceding six (6) months plus Five
19 Million Dollars (\$5,000,000.00);

20 23. "Measuring device" shall mean any and all measuring devices
21 through or by the use of which regulated substances are sold,
22 dispensed or delivered to the public or to any person buying any
23 such substance for any purpose other than resale;

24

1 24. "Motor fuel" has the same meaning as the term is defined by
2 Section 500.3 of Title 68 of the Oklahoma Statutes;

3 25. "New system" means a storage tank system for which the
4 installation or upgrade of the system began on or after December 22,
5 1998. Storage tank systems installed after July 1, 2008, must be
6 secondarily contained and use interstitial monitoring;

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

13 27. "Owner" means:

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

21 b. in the case of a storage tank system in use before
22 November 8, 1984, but no longer in service on that
23 date, any person who held title to, controlled, or
24

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

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

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

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

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

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

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

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

19 33. "Purchase order" means a performance-based agreement
20 negotiated between an environmental consultant and the Petroleum
21 Storage Tank Division stipulating a scope of work to be performed by
22 a target date, for which the Petroleum Storage Tank Indemnity Fund
23 will reimburse a specified amount;

24

1 34. "Regulated substance" means petroleum which is regulated
2 pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act;

3 35. "Reimbursement" means either:

4 a. repayment of an approved claim to an eligible person
5 for allowable costs resulting from an eligible
6 release, or

7 b. payment of an approved claim submitted on behalf of an
8 eligible person for incurred allowable costs resulting
9 from an eligible release;

10 36. "Release" means any spilling, overfilling, leaching,
11 emitting, discharging, escaping, unintentional disposing or leaking
12 from a storage tank system that goes beyond the excavation zone,
13 tankpit, or secondary containment into the environment. The term
14 release includes but is not limited to a suspected or confirmed
15 release of a regulated substance from a storage tank system
16 identified as a result of sampling, testing or monitoring results,
17 or identified in any similarly reliable manner;

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

23

24

1 38. "Responsible person" means any person that is seeking
2 corrective action of real property, and submits to the jurisdiction
3 of the Commission;

4 39. "Sale" means every gallon of motor fuel, diesel fuel, or
5 blending materials sold, or stored and distributed, or withdrawn
6 from storage, within the state, for sale or use. No gallon of motor
7 fuel, diesel fuel, or blending materials shall be the basis more
8 than once of the assessment imposed by Section ~~25~~ 327.1 of this ~~act~~
9 title;

10 40. "Storage tank" is a permanent trade fixture and means a
11 stationary vessel designed to contain an accumulation of regulated
12 substances. It includes the individual compartments within a
13 compartmentalized tank, any aboveground or underground connected
14 piping, and is a trade fixture. A storage tank that has ten percent
15 (10%) or more of its volume beneath the surface of the ground is
16 considered an underground storage tank;

17 41. "Storage tank system" means a closed-plumbed system
18 including, but not limited to, the storage tank(s), the individual
19 storage tank compartments, the lines, the dispenser for a given
20 product, containment sump, if any, ancillary equipment or a delivery
21 truck that is connected to the storage tank system;

22 42. "Synthetic diesel" for the purpose of prescribing
23 specifications for the quality of synthetic diesel shall mean a
24 hydrocarbon made up of hydrocarbons that are primarily aliphatic in

1 character with the number of carbon atoms ranging from C-10 to C-20.
2 The hydrocarbons are produced from carbon monoxide and hydrogen,
3 synthesis gas, by passing the synthesis gas over a catalyst under
4 temperature and pressure, commonly known as the Fischer-Tropsch
5 process. Synthetic diesel shall meet all ASTM D975 specifications
6 with or without the use of lubrication additives. A synthetic
7 diesel blend is a blend of synthetic diesel fuel with a petroleum-
8 based diesel fuel, which is designated "Sxx", with "xx" representing
9 the volume percentage of synthetic diesel fuel in the blend;

10 43. "Tax Commission" means the Oklahoma Tax Commission;

11 44. "Transporter" means any person who transports, delivers or
12 distributes any quantity of regulated substance from one point to
13 another for the purpose of wholesale or retail gain; and

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

20 SECTION 4. AMENDATORY 17 O.S. 2011, Section 306, as
21 amended by Section 6, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
22 Section 306), is amended to read as follows:

23

24

1 Section 306. Within its jurisdictional areas of responsibility,
2 the Corporation Commission Petroleum Storage Tank Division shall
3 have the power and duty to:

4 1. Issue, renew, deny, modify, suspend, refuse to renew and
5 revoke licenses, registrations and permits pursuant to the
6 provisions of the Oklahoma Petroleum Storage Tank Consolidation Act
7 and rules promulgated pursuant thereto;

8 2. Enter at any reasonable time upon any public or private
9 property for the purpose of inspecting and investigating storage
10 tank system monitoring or remediation equipment and taking such
11 samples as may be necessary to determine compliance with the
12 provisions of the Oklahoma Petroleum Storage Tank Consolidation Act,
13 and rules promulgated pursuant thereto;

14 3. Request issuance of an administrative warrant or search
15 warrant as may be necessary by Commission application after notice
16 and hearing to allow entry, inspection, testing, sampling, or
17 copying on public or private property;

18 4. Have access to and copy any records required to be
19 maintained pursuant to the provisions of the Oklahoma Petroleum
20 Storage Tank Consolidation Act or rules promulgated pursuant
21 thereto;

22 5. Cause investigations, inquiries and inspections to be made.
23 Inspect any equipment, practice or method prior to implementation
24 which is required by the provisions of the Oklahoma Petroleum

1 Storage Tank Consolidation Act or rules promulgated pursuant
2 thereto;

3 6. Have the right to access any property which has or may have
4 had a petroleum storage tank system, a suspicion of release or a
5 confirmed release from a petroleum storage tank system on the
6 premises, and inspect any monitoring equipment, conduct sampling or
7 tests to identify any actual or suspected release of a regulated
8 substance;

9 7. Investigate alleged violations of the Oklahoma Petroleum
10 Storage Tank Consolidation Act. Employ, authorize or designate
11 personnel to conduct inquiries, investigations, inspections, and to
12 perform other acts that the Director of the Petroleum Storage Tank
13 Division is authorized or required to conduct or perform, to make
14 reports of compliance with the provisions of the Oklahoma Petroleum
15 Storage Tank Consolidation Act and rules promulgated pursuant
16 thereto;

17 8. Within its discretion, report and request criminal
18 prosecution proceedings to the district attorney having jurisdiction
19 or to the Attorney General any act committed by any person, entity,
20 owner, operator, employee or agent of a facility which may
21 constitute a violation of the provisions of the Oklahoma Petroleum
22 Storage Tank Consolidation Act, any order issued or rules
23 promulgated pursuant thereto;

24

1 9. Advise, consult, assist, and cooperate with other agencies
2 of this state, towns, cities, counties, industries, the federal
3 government, other states and interstate agencies and with affected
4 groups and political subdivisions regarding petroleum storage tank
5 issues;

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

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

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

13 13. Establish minimum standards and schedules for storage tank
14 systems;

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

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

22 b. perform tests, install release detection devices, and
23 where appropriate, monitor the environment to ensure
24 that a petroleum release is not occurring,

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

22 15. Establish and enforce administrative penalties against any
23 person or entity for violations pursuant to the provisions of the
24 Oklahoma Petroleum Storage Tank Consolidation Act, requirements,

1 rules promulgated thereunder, or orders issued therefrom, including
2 issuance of field citations by designated personnel for violations
3 of the Oklahoma Petroleum Storage Tank Consolidation Act, including
4 but not limited to the authority to shut down a storage tank system
5 found to pose an imminent threat to the health, safety or the
6 environment, to be operating a storage tank system for which permit
7 fees have not been paid, or to be operating a storage tank system
8 with an outstanding unpaid field citation or fine, or violation of a
9 Commission requirement, rule or order. The Commission shall
10 promulgate rules specifying the events that provide for storage tank
11 system shutdown. Issuance or payment of field citations shall in no
12 way preclude other enforcement proceedings, administrative
13 penalties, fines or order of the Commission if an owner or operator
14 fails to correct a violation or abate a threat to health, safety or
15 the environment in a reasonable manner, as determined by the
16 Commission. If a citation is issued or a facility is closed under
17 the provisions of the Oklahoma Petroleum Storage Tank Consolidation
18 Act, the owner or operator of the facility on application and notice
19 of hearing to the Commission shall be afforded a hearing within ten
20 (10) days of filing an application. Any penalties or fines assessed
21 pursuant to this section shall be established by the Commission by
22 rules promulgated pursuant to the Administrative Procedures Act;

23 16. Institute and maintain or intervene in any action or
24 proceeding where deemed necessary by the Commission pursuant to the

1 provisions of the Oklahoma Petroleum Storage Tank Consolidation Act
2 to protect the health, safety and welfare of any resident of this
3 state or the environment;

4 17. Review emergency response plans developed outside the
5 Commission;

6 18. Establish a schedule of fees for issuance of any permit,
7 license, inspection, form or registration in an amount to cover the
8 costs of the Commission in administering the Oklahoma Petroleum
9 Storage Tank Consolidation Act. Payment of the permitting fees for
10 any storage tank system required pursuant to the provisions of the
11 Oklahoma Petroleum Storage Tank Consolidation Act or to rules
12 promulgated pursuant thereto shall prohibit the assessment of
13 additional registration, inspection, licensing or permitting fees
14 for such storage tank systems by any other agency or municipality of
15 this state;

16 19. Create and implement an internally coordinated management
17 system for the Petroleum Storage Tank Division;

18 20. When necessary, economically advantageous, reasonable and
19 integral to a corrective action effort or to establish an
20 alternative water supply, the Petroleum Storage Tank Division may,
21 in the exercise of its powers for the performance of its duties as
22 authorized by this section, purchase real property and easements,
23 and if an owner/operator is unwilling, unknown, unavailable or
24 financially unable, the Petroleum Storage Tank Division may arrange

1 for the design, construction and operation of an alternative water
2 supply system conjunctive with a corrective action effort and/or the
3 establishment of an alternative water supply with funds from the
4 Indemnity Fund. Provided, no real property shall be purchased by
5 the Commission pursuant to this paragraph which will impose
6 liability on the Commission, Petroleum Storage Tank Division, the
7 Indemnity Fund or on the state for environmental claims or hazards.
8 Disposition of property purchased by the Indemnity Fund shall be
9 made by the Petroleum Storage Tank Division and the Office of
10 Management and Enterprise Services. Proceeds from any sale shall be
11 deposited to the credit of the Petroleum Storage Tank Indemnity
12 Fund;

13 21. Acquire and sell personal property which has been purchased
14 or obtained by a pay-for-performance contract pursuant to Section ~~27~~
15 327.3 of this ~~act~~ title. Surplus personal property shall be
16 disposed of by the Petroleum Storage Tank Division and the Office of
17 Management and Enterprise Services pursuant to the Oklahoma Surplus
18 Property Act. The proceeds of the sale shall be deposited in the
19 Petroleum Storage Tank Indemnity Fund;

20 22. Implement and coordinate an Underground Storage Tank
21 Operator Training Program pursuant to the provisions of Section 319
22 of this title, issue annual permits related thereto and assess any
23 fees necessary for such training and permitting;

24

1 23. Encourage and conduct studies, investigations and research;
2 and collect and disseminate information relating to petroleum-
3 storage-tank-related contamination and its causes, effects,
4 prevention, control and abatement;

5 24. Enter into agreements for, accept, use, disburse and
6 administer grants of money, personnel and property from the federal
7 government or any department or agency thereof, or from any state or
8 state agency, or from any other source, to promote and conduct in
9 this state any program relating to petroleum storage tank
10 regulation;

11 25. Determine, charge and receive fees to be collected for
12 services, research and permits, to file other papers, to make copies
13 of documents, to make prints of maps and drawings, and to certify
14 copies of documents, maps and drawings as authorized by law;

15 26. Provide a toll-free phone number for petroleum-storage-
16 tank-related complaints;

17 27. Develop standards for pipeline terminal and refinery
18 delivery point metering and calibration and provide for appropriate
19 inspection and regulation of such meters where the metered product
20 is to be delivered to petroleum storage tanks; and

21 28. Exercise all incidental powers as necessary and proper for
22 the administration of the Oklahoma Petroleum Storage Tank
23 Consolidation Act.

24

1 SECTION 5. AMENDATORY 17 O.S. 2011, Section 308, as
2 amended by Section 8, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
3 Section 308), is amended to read as follows:

4 Section 308. A. 1. Except as otherwise provided by this
5 subsection, no storage tank system or facility shall be operated
6 without a permit from the Corporation Commission.

7 2. A storage tank system is not required to be permitted if the
8 tank system:

9 a. does not contain or has not contained a regulated
10 substance, or

11 b. has been permanently closed or has not been in
12 operation since January 1, 1974.

13 B. No person shall deposit a regulated substance into a storage
14 tank system unless the system is operating pursuant to a permit
15 issued by the Commission.

16 C. Any person who sells a storage tank system shall notify the
17 owner or operator, or both, of the permit requirements of the
18 Oklahoma Petroleum Storage Tank Consolidation Act, Section 301 et
19 seq. of this title.

20 D. A storage tank registration form must be provided to and
21 approved by the Commission before a permit is issued. In addition
22 to other information requested by the Commission, the registration
23 form shall include the type of financial responsibility coverage
24 utilized to comply with the requirements of the Oklahoma Petroleum

1 Storage Tank Consolidation Act and by rule of the Commission and the
2 type of leak detection method employed.

3 E. 1. Permits shall be issued by the Commission for a period
4 not to exceed one (1) year.

5 2. Any permit issued pursuant to the provisions of the Oklahoma
6 Petroleum Storage Tank Consolidation Act may be transferred subject
7 to rules promulgated by the Commission and only upon approval by the
8 Commission.

9 3. Any permittee subject to the provisions of the Oklahoma
10 Petroleum Storage Tank Consolidation Act shall be deemed to have
11 given consent to any duly authorized employee or agent of the
12 Commission to access, enter, inspect or monitor, the tank system or
13 facility in accordance with the provisions of the Oklahoma Petroleum
14 Storage Tank Consolidation Act. Refusal to allow such access,
15 entry, or inspection may constitute grounds for the denial,
16 nonrenewal, suspension, or revocation of a permit. Upon refusal of
17 access, entry, inspection, sampling or copying pursuant to this
18 section, the Director may make application for and obtain an
19 administrative warrant or an order from the Commission after notice
20 and hearing to allow such entry, inspection, testing, sampling or
21 copying.

22 4. The owner or operator of a storage tank system shall display
23 the permit in a conspicuous location or manner easily visible to any
24

1 person depositing a regulated substance into a storage tank system
2 even after normal business hours.

3 F. Any permit fee collected pursuant to the Oklahoma Petroleum
4 Storage Tank Consolidation Act shall be deposited in the Corporation
5 Commission ~~Petroleum Storage Tank Consolidation~~ Revolving Fund.

6 G. The Commission may deny approval of a storage tank
7 registration, or refuse to reissue, suspend or revoke a permit
8 issued pursuant to the Oklahoma Petroleum Storage Tank Consolidation
9 Act if the Commission finds, after notice and a hearing pursuant to
10 Section 311 of this title that the applicant or permittee has:

11 1. Fraudulently or deceptively obtained or attempted to obtain
12 a permit;

13 2. Failed to comply with any order of the Commission, provision
14 or requirement of this act or any rules promulgated by the
15 Commission in accordance with the provisions of the Oklahoma
16 Petroleum Storage Tank Consolidation Act; or

17 3. Not maintained in effect, the financial responsibility
18 requirements established by subsection H of this section and by
19 rules of the Commission.

20 H. Any person owning or operating a storage tank system
21 containing a regulated substance who is not otherwise exempted by
22 law or rule of the Commission shall obtain and have in effect
23 financial responsibility coverage for taking corrective action and
24 for compensating third parties for physical injury and property

1 damage caused by releases arising from operating storage tank
2 systems. The requirement for financial responsibility coverage
3 specified by this subsection shall not be more stringent than is
4 required by the federal Environmental Protection Agency for storage
5 tank systems of equal type, age, and classification.

6 SECTION 6. AMENDATORY 17 O.S. 2011, Section 309, as
7 amended by Section 10, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
8 Section 309), is amended to read as follows:

9 Section 309. A. No person including but not limited to the
10 owner or operator, employee or agent of such owner or operator, or
11 transporter shall knowingly allow a release or suspicion of a
12 release from a storage tank system to occur or continue to occur
13 without reporting the release or suspicion of a release to the
14 Corporation Commission within twenty-four (24) hours upon
15 discovering such a release or information that suggests that a
16 release has occurred.

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

1 statutes and rules and federal laws and regulations for the
2 protection of air quality and water quality and for the
3 transportation and disposal of any waste.

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

6 1. Issue an administrative order stating the existence of an
7 emergency and requiring that such action be taken as the Commission
8 deems necessary to meet the emergency. Such order shall be
9 effective immediately. Any person to whom such an order is directed
10 shall comply with the order immediately but on application to the
11 Commission shall be afforded a hearing within ten (10) days after
12 receipt of the administrative order. On the basis of such hearing,
13 the Commission shall continue such order in effect, revoke it, or
14 modify it. Any person aggrieved by such order continued after the
15 hearing provided for in this subsection may appeal to the Supreme
16 Court as provided in Section 318 of Title 75 of the Oklahoma
17 Statutes. Such appeal when docketed shall have priority over all
18 cases pending on the docket; and

19 2. Require an owner, operator, or responsible person to submit
20 investigation, remediation or other corrective action plans to the
21 Petroleum Storage Tank Division of the Corporation Commission for
22 preapproval prior to initiating such investigation, remediation, or
23 other corrective action.

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

- 1 a. an owner or operator of the storage tank system cannot
2 be identified,
- 3 b. an identified owner or operator cannot or will not
4 comply with the order issued pursuant to subsection C
5 of this section,
- 6 c. an administrative or judicial proceeding on an order
7 issued pursuant to subsection C of this section is
8 pending and the Commission determines corrective
9 action is necessary to protect the public health,
10 safety and welfare or the environment until the
11 administrative or judicial proceeding is resolved, or
- 12 d. the Commission determines that the release constitutes
13 a danger requiring immediate action to prevent,
14 minimize or mitigate damage to the public health and
15 welfare or the environment. Before taking an action
16 under this paragraph, the Commission shall make all
17 reasonable efforts, taking into consideration the
18 urgency of the situation, to afford an owner or
19 operator notice and hearing to take a corrective
20 action and notify the owners or occupants of adjacent
21 or affected real property as specified by Section 310
22 of this title.

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

1 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 required by the Commission and the Commission
5 has taken the corrective action, or

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

9 3. Reasonable and necessary expenses incurred by the
10 Commission, the Oklahoma Leaking Underground Storage Tank Trust
11 Fund, or the Oklahoma Leaking Underground Storage Tank Revolving
12 Fund, in taking a corrective action, including costs of
13 investigating a release and administrative and legal expenses, may
14 be recovered from the Indemnity Fund by application to the
15 Commission with notice and hearing pursuant to Section 311 of this
16 title. The Commission's certification of costs incurred is prima
17 facie evidence that the costs incurred are reasonable and necessary.
18 The Commission shall be entitled to apply for and receive payment
19 from the Indemnity Fund upon any site upon which the Commission has
20 taken corrective action. Costs incurred that are recovered under
21 this subsection shall be deposited in the Corporation Commission
22 Storage Tank ~~Regulation~~ Revolving Fund. Costs reimbursed by the
23 Indemnity Fund for Oklahoma Leaking Underground Storage Tank Trust
24 Fund or Oklahoma Leaking Underground Storage Tank Revolving Fund

1 expenditures shall be deposited in the Oklahoma Leaking Underground
2 Storage Tank Revolving Fund.

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

12 1. This subsection does not:

13 a. prohibit a person who may be liable from entering an
14 agreement by which the person is insured, held
15 harmless, or indemnified for part or all of the
16 liability,

17 b. prohibit the enforcement of an insurance, hold
18 harmless, or indemnification agreement, or

19 c. bar a cause of action brought by a person who may be
20 liable or by an insurer or guarantor, whether by right
21 of subrogation or otherwise.

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

1 SECTION 7. AMENDATORY 17 O.S. 2011, Section 311, as
2 amended by Section 13, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
3 Section 311), is amended to read as follows:

4 Section 311. A. Any person who has been determined by the
5 Corporation Commission to have violated any provisions of the
6 Oklahoma Petroleum Storage Tank Consolidation Act or any rule
7 promulgated or order issued pursuant to the provisions of the
8 Oklahoma Petroleum Storage Tank Consolidation Act shall be liable
9 for a fine of not more than Ten Thousand Dollars (\$10,000.00) for
10 each day that said violation continues.

11 B. 1. The amount of the fine shall be assessed by the
12 Commission pursuant to the provisions of subsection A of this
13 section, after notice and hearing. In determining the amount of the
14 fine, the Commission shall include but not be limited to
15 consideration of the nature, circumstances and gravity of the
16 violation and, with respect to the person found to have committed
17 the violation, the degree of culpability, the effect on ability of
18 the person to continue to do business, and any show of good faith in
19 attempting to achieve compliance with the provisions of the Oklahoma
20 Petroleum Storage Tank Consolidation Act.

21 2. All fines collected pursuant to the provisions of this
22 subsection shall be deposited in the ~~Oklahoma Petroleum Corporation~~
23 Commission Storage Tank Consolidation Revolving Fund.

24

1 C. The payment, in full, of any fine, assessed pursuant to an
2 administrative order, the completion of any corrective action taken
3 for a release pursuant to an administrative order, and the otherwise
4 compliance with an administrative order issued by the Commission
5 pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act
6 for a release shall be full and complete satisfaction of the
7 violation for which the administrative order was issued and shall
8 preclude the assessment of any other administrative, civil or
9 criminal penalty for the same known violation by any other agency of
10 this state.

11 D. Any person who willfully and knowingly violates any
12 provision of the Oklahoma Petroleum Storage Tank Consolidation Act
13 or a rule, promulgated or order issued pursuant to the provisions of
14 the Oklahoma Petroleum Storage Tank Consolidation Act, upon
15 conviction, shall be guilty of a misdemeanor and may be subject for
16 each offense to a fine of not more than Five Thousand Dollars
17 (\$5,000.00) or imprisonment for a term not to exceed one (1) year or
18 both such fine and imprisonment. Each day of violation pursuant to
19 this subsection shall constitute a separate violation.

20 E. Any person who willfully and knowingly makes any false
21 statement, representation or certification in any application,
22 record, report, plan or other document filed or required to be
23 filed, or required to be maintained pursuant to the Oklahoma
24 Petroleum Storage Tank Consolidation Act or rules promulgated

1 pursuant to this act, or who falsifies, tampers with or knowingly
2 renders inaccurate any monitoring device or method required to be
3 maintained pursuant to the Oklahoma Petroleum Storage Tank
4 Consolidation Act or rules promulgated pursuant to the program shall
5 be deemed guilty of a misdemeanor and, upon conviction, may be
6 punished by a fine of not more than Five Thousand Dollars
7 (\$5,000.00) or by imprisonment for not more than six (6) months, or
8 by both such fine and imprisonment. Each day of violation pursuant
9 to this subsection shall constitute a separate violation.

10 SECTION 8. AMENDATORY 17 O.S. 2011, Section 322, as last
11 amended by Section 21, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
12 Section 322), is amended to read as follows:

13 Section 322. A. 1. Effective July 1, 1998, there is hereby
14 established the Petroleum Storage Tank Division within the
15 Corporation Commission, which shall have separate budget activities
16 and subactivities from any other division of the Commission.

17 2. The Petroleum Storage Tank Division shall be funded by
18 available federal funds, grants, fees, and appropriations.

19 B. 1. The Petroleum Storage Tank Division shall be the sole
20 division of the Commission with jurisdiction over releases and
21 spills from petroleum storage tanks.

22 2. The acts and programs specified by this paragraph shall
23 constitute a part of the Oklahoma Petroleum Storage Tank
24 Consolidation Act and shall be subject to the jurisdiction of the

1 Division. This jurisdiction shall include, but not be limited to,
2 the administration of the following previous acts, programs, funds
3 and inspections:

- 4 a. the Oklahoma Petroleum Storage Tank ~~Consolidation~~
5 Regulation Act,
- 6 b. the Oklahoma Petroleum Storage Tank Reform Act,
- 7 c. the Oklahoma Petroleum Storage Tank Release Indemnity
8 Fund Program,
- 9 ~~e.~~ d. the Oklahoma Petroleum Storage Tank ~~Revolving~~ Release
10 Environmental Cleanup Indemnity Fund,
- 11 ~~d.~~ e. the Oklahoma Storage Tank Regulation Revolving Fund,
- 12 f. the Oklahoma Leaking Underground Storage Tank Trust
13 Fund,
- 14 ~~e.~~ g. the Oklahoma Leaking Underground Storage Tank Trust
15 Revolving Fund,
- 16 ~~f.~~ h. Compliance and Inspection,
- 17 ~~g.~~ i. Petroleum Storage Tank Registration, Licensing, and
18 ~~h.~~ j. Antifreeze.

19 3. All positions in the Petroleum Storage Tank Division shall
20 be unclassified. Those employees who are classified on the
21 effective date of this act may elect to remain classified pursuant
22 to Section 840-4.2 of Title 74 of the Oklahoma Statutes.

23 4. All rules promulgated and orders entered by the Oklahoma
24 Corporation Commission prior to the effective date of this act

1 related to the programs, funds and services of the Petroleum Storage
2 Tank Division and shall remain in full force and effect until
3 overturned, amended, modified, revoked or repealed by the
4 Corporation Commission and shall be enforced by the Petroleum
5 Storage Tank Division.

6 C. 1. The Director of the Petroleum Storage Tank Division
7 shall be appointed by the Director of Administration of the
8 Corporation Commission. All other employees of the Petroleum
9 Storage Tank Division shall be hired by the Director of the
10 Petroleum Storage Tank Division.

11 2. The Director shall provide for the administration of the
12 Petroleum Storage Tank Division and shall:

- 13 a. develop the organizational framework of the Petroleum
14 Storage Tank Division,
- 15 b. define duties and set salaries of employees, to employ
16 a sufficient number of employees to accomplish the
17 duties and responsibilities of the programs, funds and
18 services of the Petroleum Storage Tank Division,
19 including but not limited to such assistants,
20 chemists, geologists, hydrologists, storage tank
21 professionals, engineers, administrative, clerical and
22 technical personnel, investigators, aides and such
23 other personnel, either on a full-time, part-time, fee
24 or contractual basis, as in the judgment and

1 discretion of the Director shall be deemed necessary,
2 expedient, convenient or appropriate to the
3 performance or carrying out of any of the purposes,
4 objectives, responsibilities or statutory provisions
5 relating to the Petroleum Storage Tank Division,

6 c. establish internal policies and procedures for the
7 proper and efficient administration of the Division,

8 d. clearly delineate the duties and responsibilities of
9 the various programs as prescribed by law within the
10 jurisdiction of the Division,

11 e. create and implement an internal coordinated
12 management system among the Storage Tank Regulation
13 Program and the Indemnity Fund,

14 f. the Indemnity Fund Administrator and all other
15 employees of the Indemnity Fund shall be hired by the
16 Director of the Petroleum Storage Tank Division of the
17 Corporation Commission,

18 g. Indemnity Fund employees shall be in the unclassified
19 service and shall be exempt from the agency full-time-
20 equivalent limit. All employees involved in reviewing
21 and approving claims and in the approval and issuance
22 of payments shall be employees of the Indemnity Fund
23 under the supervision of the Director or Director's
24 designee,

- 1 h. the Director is authorized to employ temporary
2 workers, contract labor, or to contract with a private
3 company as may be prudent to properly administer the
4 Indemnity Fund, and
- 5 i. exercise all incidental powers which are necessary and
6 proper to implement the purposes of the Division
7 pursuant to the Oklahoma Petroleum Storage Tank
8 Consolidation Act and to implement all programs within
9 the Division's jurisdiction.

10 SECTION 9. AMENDATORY 17 O.S. 2011, Section 324, as
11 amended by Section 22, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
12 Section 324), is amended to read as follows:

13 Section 324. A. Monies in the Petroleum Storage Tank Indemnity
14 Fund shall only be expended for:

15 1. Reimbursements to eligible persons, unless duly assigned to
16 another, for eligible expenses including the costs to identify and
17 confirm the existence of a suspected release when so instructed by
18 the Petroleum Storage Tank Division or when such expenses as
19 determined by the Petroleum Storage Tank Division as necessary and
20 appropriate to protect the health, safety and welfare of the public
21 and the environment;

22 2. Reimbursement of actual costs incurred by the Division for
23 the administration of the Indemnity Fund;

1 3. Purchase real property, personal property and easements in
2 conjunction with corrective action efforts and/or the establishment
3 of an alternative water supply as provided for in Section 306 of
4 this title;

5 4. Reimbursement of actual costs incurred by the Petroleum
6 Storage Tank Division for the administration of the Indemnity Fund
7 and costs incurred for the purpose of evaluating claims and
8 determining whether specific claims qualify for payment or
9 reimbursement from the Indemnity Fund. Any costs incurred by and
10 reimbursed to the Commission pursuant to the provisions of the
11 Indemnity Fund shall not exceed the actual expenditures made by the
12 Commission to implement the provisions of the Indemnity Fund; and

13 5. Payment of claims from the Indemnity Fund shall not become
14 or be construed to be an obligation of this state. No claims
15 submitted for reimbursement from the Indemnity Fund shall be paid
16 with state monies.

17 B. The Director of the Petroleum Storage Tank Division shall
18 hire an Administrator who shall administer the Indemnity Fund for
19 the benefit of those persons determined to be eligible by the
20 Administrator to receive total or partial reimbursement for:

21 1. The costs determined to be eligible by the Administrator in
22 preparing a corrective action plan;

23 2. The cost of corrective action taken in response to an
24 eligible release;

1 3. Payment of claims for property damage or personal injury
2 resulting from an eligible release; and

3 4. Necessary costs incidental to the cost of a site assessment
4 or the corrective action taken and for filing and obtaining
5 reimbursement from the Indemnity Fund.

6 C. Reimbursements made to or for the benefit of eligible
7 persons shall be exempt from The Oklahoma Central Purchasing Act.

8 D. 1. Costs incurred as a result of a release from a storage
9 tank system owned or operated by this state are reimbursable
10 pursuant to the provisions of the Oklahoma Petroleum Storage Tank
11 Consolidation Act. State-owned facilities shall take the proper
12 corrective action as may be necessary to protect the environment
13 from a leaking storage tank system. An agency of the state may also
14 access said fund for reimbursement when it purchases property
15 containing storage tanks from an owner or operator qualified to
16 access the Indemnity Fund and upon which an eligible release has
17 occurred prior to the agency acquiring the property.

18 2. Costs incurred as a result of a release from a storage tank
19 system owned or operated by a Class I railroad or the federal
20 government are not reimbursable pursuant to the provisions of the
21 Oklahoma Petroleum Storage Tank Consolidation Act.

22 E. The Indemnity Fund shall consist of:

23 1. All monies received by the Commission as proceeds from the
24 assessment imposed pursuant to Section ~~25~~ 327.1 of this ~~act~~ title;

1 2. Interest attributable to investment of money in the
2 Indemnity Fund; and

3 3. Money received by the Commission in the form of gifts,
4 grants, reimbursements or from any other source intended to be used
5 for the purposes specified by or collected pursuant to the
6 provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

7 F. 1. Except as provided in this section, the monies deposited
8 in the Indemnity Fund shall at no time become monies of the state
9 and shall not become part of the general budget of the Commission or
10 any other state agency. Except as otherwise authorized by the
11 Oklahoma Petroleum Storage Tank Consolidation Act, no monies from
12 the Indemnity Fund shall be transferred for any purpose to any other
13 state agency or any account of the Commission or be used for the
14 purpose of contracting with any other state agency or reimbursing
15 any other state agency for any expense.

16 2. Monies from the Indemnity Fund may be used to pay or
17 reimburse the Commission for the salary and indirect expense of any
18 employee of the Petroleum Storage Tank Division while such employee
19 is performing work involved in the regulation of storage tanks
20 pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or
21 the administration of programs pursuant to said act, including the
22 development, review and approval of corrective action plans as
23 required by the regulatory programs. The Indemnity Fund shall pay
24 for all costs associated with administering the Compliance and

1 Inspection Department including, but not limited to, automobile and
2 travel costs, computer software and equipment, and other costs
3 incurred in administering the Compliance and Inspection Department.
4 The Commission shall cross-train the field staff of the Petroleum
5 Storage Tank Division to perform inspections and related field
6 activities for all programs within the Division and the Indemnity
7 Fund may reimburse the Division the actual costs of inspection
8 services performed on behalf of the Indemnity Fund.

9 SECTION 10. AMENDATORY 17 O.S. 2011, Section 325, as
10 amended by Section 23, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018,
11 Section 325), is amended to read as follows:

12 Section 325. A. The Director of the Petroleum Storage Tank
13 Division shall make a written report on an annual basis to the
14 Corporation Commissioners, the Storage Tank Advisory Council, the
15 Speaker of the House of Representatives and the President Pro
16 Tempore of the Senate detailing the following:

- 17 1. The total number of storage tank applicants requesting
18 disbursement from the Indemnity Fund during the preceding year;
- 19 2. The total number of storage tank applicants receiving
20 payment during the preceding year and total amount disbursed for
21 such payments;
- 22 3. The average time frame for providing disbursements to
23 applicants;

24

1 4. The total amount of funds needed to complete the corrective
2 action and achieve closure of all release cases; and

3 5. Any other information requested by the Speaker of the House
4 of Representatives or the President Pro Tempore of the Senate
5 regarding the Indemnity Fund program.

6 B. The Oklahoma Tax Commission shall submit an annual report to
7 the Speaker of the House of Representatives and the President Pro
8 Tempore of the Senate detailing the amount of assessments collected
9 for deposit to the Indemnity Fund and to the State Transportation
10 Fund.

11 C. The Oklahoma Department of Transportation shall submit an
12 annual report to the Speaker of the House of Representatives and the
13 President Pro Tempore of the Senate detailing the expenditures made
14 from the revenue received from the assessment levied pursuant to
15 Section ~~25~~ 327.1 of this ~~act~~ title.

16 D. The Oklahoma Department of Environmental Quality shall
17 submit an annual report to the Speaker of the House of
18 Representatives and the President Pro Tempore of the Senate
19 detailing the expenditures made from the revenue received from the
20 assessment levied pursuant to Section ~~25~~ 327.1 of this ~~act~~ title.

21 E. By December 1, 1998, and every year thereafter, the State
22 Auditor and Inspector shall conduct an independent audit of the
23 books, records, files and other such documents of the Corporation
24 Commission pertaining to and which relate to the administration of

1 the Petroleum Storage Tank Indemnity Fund. The audit shall include
2 but shall not be limited to a review of agency compliance with state
3 statutes regarding the Indemnity Fund, internal control procedures,
4 adequacy of claim process expenditures from and debits of the
5 Indemnity Fund regarding administration, personnel, operating and
6 other expenses charged by the Corporation Commission; the duties
7 performed in detail by agency personnel and Indemnity Fund personnel
8 for which payment is made from the Indemnity Fund, and
9 recommendations for improving claim processing, equipment needed for
10 claim processing, internal control or structure for administering
11 the Indemnity Fund; and such other areas deemed necessary by the
12 State Auditor and Inspector.

13 F. The cost of the audit shall be borne by the Indemnity Fund.

14 G. Copies of the audit shall be submitted to the State Auditor
15 and Inspector, the Governor, the Speaker of the House of
16 Representatives, the President Pro Tempore of the Senate and the
17 Chairs of the Appropriation Committees of both the Oklahoma House of
18 Representatives and the Oklahoma State Senate.

19 SECTION 11. AMENDATORY Section 24, Chapter 27, O.S.L.
20 2018 (17 O.S. Supp. 2018, Section 327), is amended to read as
21 follows:

22 Section 327. A. Any Petroleum Storage Tank Indemnity Fund bill
23 which would change the distribution of the assessment imposed
24 pursuant to the provisions of Section ~~25~~ 327.1 of this ~~act~~ title and

1 decrease the amount required to be deposited in the Petroleum
2 Storage Tank Indemnity Fund shall require approval of not less than
3 two-thirds (2/3) of the membership of each House of the Legislature
4 to become law.

5 B. The provisions of subsection A of this section shall not
6 apply to any Petroleum Storage Tank Indemnity Fund bill that
7 appropriates monies from the Petroleum Storage Tank Indemnity Fund
8 for purposes of increasing the costs of administering the Indemnity
9 Fund or related administrative functions of the Corporation
10 Commission.

11 C. For purposes of this section, a "Petroleum Storage Tank
12 Indemnity Fund bill" shall mean any bill which amends any or all of
13 Section ~~30~~ 327.1 of this ~~act~~ title or any bill that impacts the
14 distribution of the assessment set forth in Section ~~30~~ 327.1 of this
15 ~~act~~ title.

16 SECTION 12. AMENDATORY Section 25, Chapter 27, O.S.L.
17 2018 (17 O.S. Supp. 2018, Section 327.1), is amended to read as
18 follows:

19 Section 327.1 A. Except as otherwise provided by this section,
20 there shall be an assessment of one cent (\$0.01) per gallon upon the
21 sale of each gallon of motor fuel used or consumed in this state.
22 The assessment imposed pursuant to the provisions of this section
23 shall be for the purposes of providing revenue to:
24

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

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

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

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

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

12 6. The Weigh Station Improvement Revolving Fund pursuant to
13 paragraph 3 of subsection C of this section.

14 The assessment shall be imposed at the time of the sale of the
15 motor fuel and shall be precollected and remitted to the Oklahoma
16 Tax Commission in accordance with Section 500.1 et seq. of Title 68
17 of the Oklahoma Statutes and as provided by Section ~~26~~ 327.2 of this
18 ~~act~~ title.

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

21 a. the state government,

22 b. the federal government,

23 c. Class I and Class II railroads, and
24

1 d. sales for exportation outside of this state by a
2 licensed exporter.

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

5 a. motor fuel used solely and exclusively in district-
6 owned or leased public school buses, FFA and 4-H Club
7 trucks for the purposes of legally transporting public
8 school children, or in the operation of vehicles used
9 in driver training,

10 b. motor fuels used solely and exclusively to propel
11 motor vehicles on the public roads and highways of
12 this state when leased or owned and being operated for
13 the sole benefit of a county, city, town, volunteer
14 fire department with a state certification and rating,
15 rural electric cooperative, rural water and sewer
16 district, rural ambulance service district, or
17 federally recognized Indian tribe as specified by
18 Section 500.10 of Title 68 of the Oklahoma Statutes,

19 c. motor fuel to counties and cities and towns,

20 d. diesel fuel for off-road purposes specified by Section
21 500.10 of Title 68 of the Oklahoma Statutes,

22 e. motor fuel used for agricultural purposes specified by
23 Section 500.10 of Title 68 of the Oklahoma Statutes,

24 and

1 f. motor fuel used in aircraft or in aircraft engines
2 pursuant to Section 500.10 of Title 68 of the Oklahoma
3 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 Corporation
8 Commission Revolving Fund created in Section 180.7 of Title 17 of
9 the Oklahoma Statutes;

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, 2008, in the
16 Weigh Station Improvement Revolving Fund totals Eighty-one Million
17 Dollars (\$81,000,000.00), Five Hundred Thousand Dollars
18 (\$500,000.00) per month of all revenue from the assessment received
19 over the amount required by paragraphs 1 and 2 of this subsection
20 shall be deposited in the Weigh Station Improvement Revolving Fund,
21 created in Section 1167 of Title 47 of the Oklahoma Statutes and
22 shall be used solely for the purpose of constructing weigh stations;

23 4. After the total amount deposited in the Weigh Station
24 Improvement Revolving Fund totals Eighty-one Million Dollars

1 (\$81,000,000.00), any revenue from the assessment received over the
2 amounts required in paragraphs 1 and 2 of this subsection shall be
3 deposited in the Petroleum Storage Tank Indemnity Fund ~~created in~~
4 ~~Section 22 of~~ as provided in this act section in amounts necessary
5 to maintain the maintenance level of the Indemnity Fund pursuant to
6 subsection D of this section; and

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

10 a. the first One Million Dollars (\$1,000,000.00)
11 collected during each fiscal year shall be deposited
12 in the Corporation Commission Storage Tank Revolving
13 Fund for the purpose of implementing the provisions of
14 the Oklahoma Petroleum Storage Tank Consolidation Act
15 and the rules promulgated thereunder, and

16 b. the balance of the monies collected during each fiscal
17 year shall be deposited in the State Transportation
18 Fund and shall be used solely for the purpose of
19 matching Federal-Aid funds for the construction of
20 highways and roads in this state.

21 D. 1. If at any time the Petroleum Storage Tank Indemnity Fund
22 falls below the required maintenance level on or before December 31,
23 2032, the Administrator shall notify the Tax Commission that the
24 Indemnity Fund has fallen below the required maintenance level and

1 that the assessment is to be deposited into the Indemnity Fund for
2 at least three (3) calendar months pursuant to the provisions of
3 paragraph 2 of this subsection.

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

- 18 a. motor fuel used solely and exclusively in district-
19 owned or leased public school buses, FFA and 4-H Club
20 trucks for the purposes of legally transporting public
21 school children or in the operation of vehicles used
22 in driver's training,
- 23 b. motor fuels used solely and exclusively to propel
24 motor vehicles on the public roads and highways of the

1 state when leased or owned and being operated for the
2 sole benefit of a county, city or town, volunteer fire
3 department with a state certification and rating,
4 rural electric cooperative, rural water and sewer
5 district, rural ambulance service district, or
6 federally recognized Indian tribe as specified by
7 Section 500.10 of Title 68 of the Oklahoma Statutes,
8 c. motor fuel to counties and cities and towns,
9 d. diesel fuel for off-road purposes specified by Section
10 500.10 of Title 68 of the Oklahoma Statutes,
11 e. motor fuel used for agricultural purposes specified by
12 Section 500.10 of Title 68 of the Oklahoma Statutes,
13 and
14 f. motor fuel used in aircraft and aircraft engines
15 pursuant to Section 500.10 of Title 68 of the Oklahoma
16 Statutes.

17 3. After the collection period required by this subsection has
18 expired, the revenue collected from the assessment shall be again
19 deposited in the Corporation Commission Storage Tank Revolving Fund
20 and the State Transportation Fund as provided in paragraph 5 of
21 subsection C of this section.

22 SECTION 13. AMENDATORY Section 26, Chapter 27, O.S.L.
23 2018 (17 O.S. Supp. 2018, Section 327.2), is amended to read as
24 follows:

1 Section 327.2 A. It shall be the duty of every supplier,
2 licensed importer or any other appropriate person under this act to
3 precollect and remit any assessment so precollected pursuant to the
4 provisions of this act and Section ~~25~~ 327.1 of this ~~act~~ title and
5 make and submit an assessment collection report as required by this
6 section.

7 B. 1. The assessment imposed pursuant to the provision of
8 Section ~~25~~ 327.1 of this ~~act~~ title shall be collected and remitted
9 to the Oklahoma Tax Commission at the same time and in the same
10 manner as provided by law for the collection and remission of tax
11 levies upon the sale of gasoline within this state. The basis for
12 computation of the amount due shall be one hundred percent (100%) of
13 the net gallonage reported to the Tax Commission for assessment.

14 2. Each supplier, licensed importer or other appropriate person
15 shall make and submit for each calendar month that the assessment is
16 imposed an itemized and verified assessment collection report
17 showing:

- 18 a. the name of the supplier, licensed importer or other
19 appropriate person collecting the assessment,
- 20 b. the total amount of motor fuel, diesel fuel and
21 blending materials sold during the preceding month,
- 22 c. the total amount of assessments collected by the
23 supplier, licensed importer or other appropriate
24 person during the preceding month, and

1 d. such further information the Tax Commission may
2 require to enable it to compute correctly and collect
3 the assessment made pursuant to this act.

4 The reports shall be filed at the same time and in like manner
5 as required for gasoline tax reports pursuant to this act.

6 C. Every supplier, licensed importer or other appropriate
7 person shall keep and preserve suitable records of the gross sales
8 of motor fuel, diesel fuel and blending materials, the assessment
9 collected and such other pertinent records and documents which may
10 be necessary to determine the amount of assessment due as will
11 substantiate and prove the accuracy of the reports. All the records
12 shall be preserved for a period of three (3) years, unless the Tax
13 Commission, in writing, has authorized their destruction or disposal
14 at an earlier date. The records shall be open for examination by
15 employees of the Tax Commission, the Corporation Commission or the
16 Oklahoma Department of Transportation in the performance of their
17 duties pursuant to law.

18 D. Any supplier, licensed importer or other appropriate person
19 who fails to comply with any provisions of this section shall pay a
20 penalty imposed by the Tax Commission. Any monies collected for
21 payment of the penalty shall be deposited in the same manner as the
22 assessments pursuant to the provisions of subsection B of ~~Section 25~~
23 ~~of this act~~ section. The penalty shall be equal to ten percent
24 (10%) of the gross amount of the assessments received by the

1 supplier, licensed importer or other appropriate person for the
2 report period that the supplier, licensed importer or other
3 appropriate person failed to timely mail the required report or
4 remit any monies collected pursuant to the provisions of this act.

5 E. The Tax Commission shall keep a separate accounting of all
6 the monies received pursuant to this section and together with any
7 interests and penalties thereon shall deposit such monies monthly as
8 provided in subsection B of ~~Section 25~~ of this act section.

9 SECTION 14. AMENDATORY Section 36, Chapter 27, O.S.L.
10 2018 (17 O.S. Supp. 2018, Section 341.3), is amended to read as
11 follows:

12 Section 341.3 If any section, paragraph, sentence, or phrase of
13 ~~Sections 33 through 46~~ Section 301 et seq. of this act title shall
14 be declared unconstitutional or void, for any reason, by any court
15 of final jurisdiction, such decision shall not in any way invalidate
16 or affect any other section, paragraph, sentence, or phrase of this
17 act, but the same shall continue in full force and effect.

18 SECTION 15. AMENDATORY Section 39, Chapter 27, O.S.L.
19 2018 (17 O.S. Supp. 2018, Section 344), is amended to read as
20 follows:

21 Section 344. A. Any dealer in or manufacturer or other person
22 in possession of regulated substances who refuses to admit an
23 inspector upon the premises to perform the duties of the inspector
24 shall, for each refusal to admit on his or her premises, or

1 obstruction offered to an inspector, be guilty of a misdemeanor and
2 be subject to a fine of Five Hundred Dollars (\$500.00) per day per
3 violation and imprisonment for ninety (90) days, or both, for each
4 offense.

5 B. Any person who owns or has custody of any measuring device
6 who shall refuse to admit employees of the Corporation Commission
7 upon his or her premises so far as it may be necessary for the
8 performance of their duties, or shall obstruct such employees in the
9 performance of their duties, shall for each separate offense be
10 guilty of a misdemeanor and subject to a fine of One Hundred Dollars
11 (\$100.00).

12 SECTION 16. AMENDATORY Section 43, Chapter 27, O.S.L.
13 2018 (17 O.S. Supp. 2018, Section 346.2), is amended to read as
14 follows:

15 Section 346.2 The provisions of Section ~~33~~ 341 of this ~~act~~
16 title shall not apply to regulated substances brought into this
17 state in transit for shipment to and consumption in other states or
18 territories.

19 SECTION 17. AMENDATORY Section 45, Chapter 27, O.S.L.
20 2018 (17 O.S. Supp. 2018, Section 346.4), is amended to read as
21 follows:

22 Section 346.4 Any person who owns or has custody or control of
23 any measuring device which does not meet or comply with the tests,
24 standards, specifications and rules of the Corporation Commission or

1 any person who tampers with, alters, defaces or destroys any sign,
2 label, seal or lock mentioned in Section 41 346 of this ~~act~~ title,
3 without having first secured an order permitting the removal of such
4 sign, label, seal or lock, as provided in Section 41 346 of this ~~act~~
5 title, or any person who violates any rule or order of the
6 Commission promulgated under authority of this act, shall be guilty
7 of a misdemeanor and upon conviction thereof shall be punished by a
8 fine of not more than Two Hundred Fifty Dollars (\$250.00),
9 administrative penalties as set forth in Section 311 of ~~Title 17 of~~
10 ~~the Oklahoma Statutes~~ this title, and/or punitive damages as set
11 forth in Section 312 of ~~Title 17 of the Oklahoma Statutes~~ this
12 title; and each day on which any person, firm or corporation
13 violates any of such orders or rules shall be deemed a separate
14 offense. The court may order restitution for any actual damages
15 incurred.

16 SECTION 18. AMENDATORY Section 51, Chapter 27, O.S.L.
17 2018 (17 O.S. Supp. 2018, Section 348.3), is amended to read as
18 follows:

19 Section 348.3 Before any antifreeze shall be sold, exposed for
20 sale or held with intent to sell within this state, a sample thereof
21 must be analyzed pursuant to standards established by the Oklahoma
22 Corporation Commission and a certified analysis submitted to the
23 Petroleum Storage Tank Division for approval with the initial or
24 annual permit fee application. Upon the initial application of the

1 manufacturer, packer or distributor, and upon the payment of a fee
2 of One Hundred Dollars (\$100.00) for each brand of antifreeze
3 submitted, the Corporation Commission shall approve the analysis of
4 the antifreeze submitted and, if it meets the standards of the
5 Corporation Commission, and is not in violation of Sections ~~48~~ 348
6 through ~~57~~ 348.9 of this ~~act~~ title, the Corporation Commission shall
7 issue the applicant an annual written permit, with an official
8 permit number, authorizing the sale of such antifreeze in this state
9 for one (1) fiscal year, July 1 to June 30, in which inspection fee
10 is paid. However, upon approval of an application for renewal of a
11 permit, the fee shall not exceed One Hundred Dollars (\$100.00). The
12 original permit and renewal issued by the Corporation Commission
13 shall bear the same number and shall not be transferable. If the
14 Corporation Commission shall at a later date find that the product
15 to be sold, exposed for sale or held with intent to sell has been
16 materially altered, without the written permission of the
17 Corporation Commission, adulterated, or a change has been made in
18 the name, brand or trademark under which the antifreeze is sold, or
19 it violated the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of
20 this ~~act~~ title, the Corporation Commission shall notify the
21 applicant and the permit shall be canceled.

22 SECTION 19. AMENDATORY Section 52, Chapter 27, O.S.L.
23 2018 (17 O.S. Supp. 2018, Section 348.4), is amended to read as
24 follows:

1 Section 348.4 The Petroleum Storage Tank Division of the
2 Oklahoma Corporation Commission shall enforce the provisions of
3 Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title by certification,
4 inspections, chemical analysis or any other appropriate methods.
5 All samples for inspection or analysis shall be taken from stocks in
6 this state or intended for sale in this state, or the Corporation
7 Commission through its agents shall require the manufacturer or
8 distributor applying for a permit for antifreeze sale to supply a
9 certified analysis of the antifreeze with the permit application.
10 The Corporation Commission, through its agents, shall have free
11 access by legal means during business hours to all places of
12 business, buildings, vehicles, cars and vessels used in the
13 manufacture, transportation, sale or storage of any antifreeze, and
14 it may open by legal means a box, carton, parcel, or package
15 containing or supposed to contain any antifreeze and may take
16 therefrom samples for analysis.

17 SECTION 20. AMENDATORY Section 53, Chapter 27, O.S.L.
18 2018 (17 O.S. Supp. 2018, Section 348.5), is amended to read as
19 follows:

20 Section 348.5 The Oklahoma Corporation Commission shall have
21 the authority to promulgate such rules and regulations as are
22 necessary to promptly and effectively enforce the provisions of
23 Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title.

24

1 SECTION 21. AMENDATORY Section 54, Chapter 27, O.S.L.
2 2018 (17 O.S. Supp. 2018, Section 348.6), is amended to read as
3 follows:

4 Section 348.6 The Petroleum Storage Tank Division of the
5 Oklahoma Corporation Commission may furnish upon request a list of
6 the brands and trademarks of antifreeze permitted and permit numbers
7 issued by the Corporation Commission during the calendar year which
8 have been found to be in accord with Sections ~~48~~ 348 through ~~57~~
9 348.9 of this ~~act~~ title.

10 SECTION 22. AMENDATORY Section 55, Chapter 27, O.S.L.
11 2018 (17 O.S. Supp. 2018, Section 348.7), is amended to read as
12 follows:

13 Section 348.7 No advertising literature relating to any
14 antifreeze sold or to be sold in this state shall contain any
15 statement that the antifreeze advertised for sale has been approved
16 by the Oklahoma Corporation Commission unless the antifreeze has
17 been permitted by the Corporation Commission and found to meet the
18 standards of the Corporation Commission and not to be in violation
19 of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title, in which
20 event such statement together with the permit number of the
21 wholesaler or distributor may be contained in any labeling and
22 advertising literature where such brand or trademark or antifreeze
23 is being advertised for sale.

24

1 SECTION 23. AMENDATORY Section 56, Chapter 27, O.S.L.
2 2018 (17 O.S. Supp. 2018, Section 348.8), is amended to read as
3 follows:

4 Section 348.8 All fees collected by the Oklahoma Corporation
5 Commission under the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9
6 of this ~~act~~ title shall be deposited with the State Treasurer to the
7 credit of the Corporation Commission Revolving Fund.

8 SECTION 24. AMENDATORY Section 57, Chapter 27, O.S.L.
9 2018 (17 O.S. Supp. 2018, Section 348.9), is amended to read as
10 follows:

11 Section 348.9 Any person or persons violating the provisions of
12 Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title shall be deemed
13 guilty of a misdemeanor and shall, upon conviction thereof, be
14 punished by a fine of not less than Three Hundred Dollars (\$300.00)
15 nor more than Five Hundred Dollars (\$500.00), or imprisonment for
16 ninety (90) days or both for each offense. In addition thereto, the
17 Corporation Commission is hereby authorized to punish any person or
18 persons violating the rules and regulations adopted by the
19 Commission pursuant to Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~
20 title for contempt, and any person found guilty of violating the
21 rules and regulations of the Corporation Commission adopted pursuant
22 to Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title may be fined
23 any amount not exceeding Five Hundred Dollars (\$500.00) for each
24 offense.

1 SECTION 25. This act shall become effective July 1, 2019.

2 SECTION 26. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
7 April 2, 2019 - DO PASS
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24