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Filing ID: 7041

Submission Date: 12/20/2019 13:44:16 pm

Agency Name: Corporation Commission, Oklahoma - OCC
Mailing Address 1: 2101 N. Lincoln Blvd
Mailing Address 2: Jim Thorpe Bldg
City: Oklahoma City
State: OK
Zip: 73105

Type of Filing: Administrative Rules

Rule Type: Permanent

Adoption Date: 12/10/2019

Title Number: 165

Chapter Number: 15

Sub Chapters: 1, 3, 13, 15, 19

Public Comment: Comments were made and discussions held regarding proposed rules. Written comments filed with the Commission's Court Clerk are summarized in the Rule Report under Section 9. All comments were addressed and taken into account in the adopted rules.

Rule Impact: No adverse economic impact anticipated.

Reason for Rule: The adopted rules clarify the existing rules and remove obsolete or incorrect references. The adopted rules update current practices to align with changes in the fuel industry and current Commission
procedures. The adopted rules clarify the PSTD enforcement process.

**Statutory Authority to promulgate the rules:** 17 O.S. Â§Â§ 306(12), 307, 322, 342, and 347

**Fee Increase?** No
AGENCY RULE REPORT
OKLAHOMA CORPORATION COMMISSION
PERMANENT RULEMAKING
OAC 165:15. FUEL INSPECTION
CAUSE NO. RM 201900005

Pursuant to the Oklahoma Administrative Procedures Act requirements in 75 O.S. §§ 303.1(A) and 308(A), the Oklahoma Corporation Commission ("Commission") hereby respectfully submits this Agency Rule Report to the Honorable J. Kevin Stitt, Governor of the State of Oklahoma, the Honorable Greg Treat, President Pro Tempore of the State Senate, and the Honorable Charles McCall, Speaker of the House of Representatives.

1. DATE OF THE PUBLICATION OF NOTICE OF PROPOSED RULEMAKING:

A. The Commission's Notice of Proposed Rulemaking was published in The Journal Record of Oklahoma City, Oklahoma on September 19, 2019.

B. 75 O.S. § 250.4 exempts the Commission from the requirements of 75 O.S. §§ 255, 303(A), and 303(B) respectively, to publish a Notice of Intended Rulemaking in The Oklahoma Register.

2. NAME AND ADDRESS OF THE AGENCY:

Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, Oklahoma 73152-2000

3. TITLE AND NUMBER OF THE RULES:

Chapter 15. Fuel Inspection
165:15-1-2. Definitions [AMENDED]
Subchapter 3. Fuel Specialists, Testing, Accessibility, and Assistance
Part 11. Accessibility and Assistance
165:15-3-32. Retail outlet facility with aboveground storage tanks [AMENDED]
Subchapter 13. Labeling of Tanks and Product Lines
165:15-13-1. General identification and color coding requirements [AMENDED]
Subchapter 15. Liquid Measuring Devices
Part 7. Money Values and Volumes Dispensed
165:15-15-35. Money value display and computation [AMENDED]
Subchapter 19. Inspections, Notices of Violation, Field Citations, and Formal Enforcement Actions
165:15-19-3. Notices of Violation [AMENDED]
165:15-19-4. Re-inspection, Formal Enforcement and Field Citation [AMENDED]
165:15-19-5. Issuance of a Field Citation and payment of fine or hearing [AMENDED]

4. **STATUTORY AUTHORITY FOR THE RULES:**

17 O.S. §§ 306(12), 307, 322, 342, and 347.

5. **FEDERAL OR STATE LAW, COURT RULING, OR OTHER AUTHORITY REQUIRING THE RULES:**

40 CFR §§ 280 et seq.


The adopted rules make certain definitions consistent with those in other chapters; add definitions for maintenance and observation well and strike definitions already appearing in statute or which are not otherwise used in the rules. The adopted rules also clarify that a retail facility with aboveground storage tanks must provide a safe means of returning motor fuel used for calibrating dispensers back to the storage tank; designate the color of storage tanks that contain E15 motor fuel; and clarify that the price of fuel advertised on the store marquee and the price at the dispenser must be the same. The adopted rules clarify which violations can be immediately referred to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action; clarify a storage tank system can be shut down pending correction of a violation or a hearing; clarify that if an owner disagrees with a fine, the Field Citation instructs the owner as to how he or she may appear at a hearing; and clarify terminology related to a violation of Petroleum Storage Tank Division ("PSTD") rules. The adopted rules also clarify terminology related to a tank system shutdown; add language consistent with Oklahoma Administrative Code ("OAC") 165:5; strike unnecessary language, and make grammatical corrections.

7. **STATEMENT EXPLAINING THE NEED FOR THE ADOPTED RULES:**

The adopted rules clarify the existing rules and remove obsolete or incorrect references. The adopted rules update current practices to align with changes in the fuel industry and current Commission procedures. The adopted rules clarify the PSTD enforcement process.

8. **DATE AND LOCATION OF THE HEARING AT WHICH THE RULES WERE ADOPTED:**

On December 10, 2019, the rules were adopted in a public hearing held in the Third Floor Courtroom, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, before the Commission.
9. SUMMARY OF COMMENTS AND EXPLANATION OF CHANGES OR LACK OF ANY CHANGES MADE IN THE ADOPTED RULES AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARINGS OR MEETINGS HELD OR SPONSORED BY THE AGENCY FOR THE PURPOSE OF PROVIDING THE PUBLIC AN OPPORTUNITY TO COMMENT ON THE RULES OR OF ANY COMMENTS RECEIVED PRIOR TO ADOPTION OF THE RULES:

Comments submitted in writing by persons or organizations may be viewed on the Commission's website at http://imaging.occeweb.com/imaging/OAP.aspx, by searching Cause No. RM 201900005.

Summary of Written Comments:

Written comments were provided by the Oklahoma Petroleum Marketers and Convenience Store Association ("OPMCA"). OPMCA commented on rule OAC 165:15-1-2 that the definitions for aboveground storage tank ("AST") and underground storage tank ("UST") are unique and are not referenced as "storage tank" accurately so they should be changed in the statute and in the rules to match the Environmental Protection Agency's ("EPA") definitions. Adding language to interpret the system to include dispensers would make the definition more stringent than EPA's definition and have an economic impact on existing and new systems, specifically as it relates to repairing or replacing under dispenser containment ("UDC"). Commenter pointed out that the statutes and the rules do not define dispenser, dispenser system and replaced but EPA does have a definition for these terms. Commenter also stated that federal regulations state when an owner replaces a dispenser using existing equipment to connect it to the UST system, then UDC is not required. Further, Commenter expressed concern regarding unintended consequences of creating new definitions, specifically additional unnecessary regulatory burden and the economic impact to Oklahoma tank owners.

Staff responded that the proposed changes in rule definitions for an AST and a UST are only to reference the definition of "storage tank" found in 17 O.S. § 305 and to add the volume percentage that distinguishes a tank as being either above or below the ground. The only new or additional language being added is adding the statute where the definition can be found. "Aboveground storage tank system" is being stricken because the term is not used in OAC 165:15. The proposed changes in the definition of "underground storage tank system" add language to clarify the type of supply line ("closed-plumbed") for a UST, to align with the statutory definition, and to change the term "transport" truck to "delivery" truck, also to align with the statutory definition. The equipment (e.g., dispenser, containment sump, if any, ancillary equipment piping) is already in the current definition and does not add anything new.

OPMCA commented on rule OAC 165-15-13-1 that several changes are being made to tank lid colors that are not in accordance with the API (American Petroleum Institute) 1637 standard used nationwide and there is no need to mandate unique color coding specific to Oklahoma.
Staff responded that the only change that is being made to the current rule is to add a color to identify storage tanks containing E15 fuel. All other colors listed in the rule have been in place for years and staff has not received comment from industry that this is a problem. Changing the colors that have been in the permanent rules to API color coding would require all Oklahoma tank owners to repaint their tank lids.

**Summary of Public Meeting Comments:**

The first Technical Conference was held on October 24, 2019, at 1:30 p.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Murphy attended the Technical Conference.

During the first technical conference, oral comments were provided by Kevin Nickell on behalf of Love's Country Stores. Mr. Nickell commented on rule OAC 165:15-1-2 that the definition of UST says it must contain a regulated substance and asked if a tank was exempt from the rules until the regulated product goes into it. Mr. Nickell also commented that EPA defines a UST system only to the shear valve but the definition in the proposed rules includes the shear valve and asked for clarification. Staff responded that the term "regulated substances" appears in the statutory definition of "storage tank." Although EPA does not include the equipment that is located above the shear valve in dispensers in the federal storage tank program, dispensing devices and calibration of dispensers is regulated by the Commission and is part of the storage tank program.

The second Technical Conference was held on December 3, 2019, at 1:30 p.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Murphy attended the Technical Conference.

During the second technical conference, oral comments were provided by Terri Roberts on behalf of Oklahoma Environmental Services. Ms. Roberts commented on rule OAC 165:15-1-2 that the definition for UST in the rules is different than the definition in EPA regulations. The definition in the rules would require under dispenser containment when a shear valve is replaced, resulting in additional cost for a simple repair. Staff responded that the proposed changes in rule definitions for a UST are only to reference the definition of "storage tank" found in 17 O.S. § 303 and to add the volume percentage that distinguishes a tank as being either above or below the ground. The only new or additional language being added is adding the statute where the definition can be found.

A public hearing took place before the Commission on December 10, 2019, at 9:30 a.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to make oral comments concerning the revised proposed rules.
Oral and written comments were requested; however, none were presented to the Commission prior to submission of the rules for approval. No parties appeared before the Commission to object to the proposed rules.

The Commission considered the draft rules filed on November 27, 2019. After acknowledging all written and oral comments the Commission voted to approve the November 27, 2019, version of the rules without further modification.

10. **LIST OF PERSONS OR ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULES AT PUBLIC HEARING HELD BY THE COMMISSION OR THOSE WHO COMMENTED IN WRITING BEFORE OR AFTER SAID HEARINGS:**

**Appendix "A"** is a list of persons or organizations that appeared at the first technical conference, or called into the technical conference held on October 24, 2019, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**Appendix "B"** is a list of persons or organizations that appeared at the second technical conference, or called into the technical conference held on December 3, 2019, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**Appendix "C"** is a list of persons or organizations who appeared at the public hearing before the Commission, which took place on December 10, 2019, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**List of persons or organizations who submitted written comments for or against the adopted rules:**

- Oklahoma Petroleum Marketers and Convenience Store Association (OPMCA)
  6420 N. Santa Fe Avenue, Suite B
  Oklahoma City, Oklahoma 73116

11. **RULE IMPACT STATEMENT:**

**Appendix "D"** is a copy of the Rule Impact Statement filed with the Commission on October 4, 2019.
12. **ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT:**

Appendix "E" is a copy of the Economic Impact and Environmental Benefit Statement filed with the Commission on October 4, 2019.

13. **RULES INCORPORATED FROM A BODY OUTSIDE THE STATE:**

N/A

14. **RECORDED VOTE OF EACH COMMISSIONER REGARDING ADOPTION OF THE RULES:**

On December 10, 2019, Commissioners J. Todd Hiett, Bob Anthony, and Dana L. Murphy voted 3-0 to adopt the rules on a permanent basis and submit such rules to the Governor and the Legislature for their approval, pursuant to the Administrative Procedures Act, 75 O.S. §§ 250-323.

15. **PROPOSED EFFECTIVE DATE OF ADOPTED RULES:**

The rules adopted by the Commission on December 10, 2019, are attached as Appendix "F". The proposed effective date is August 1, 2020.
<table>
<thead>
<tr>
<th>NAME</th>
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<tr>
<td>Kevin Mickell</td>
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<td>OPMCA</td>
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<tr>
<td>Chris Snow</td>
<td><a href="mailto:Chris.equipment@domino.com">Chris.equipment@domino.com</a></td>
<td>405-413 188-3</td>
<td>QuikTrip Corp.</td>
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<td>Cody Thomas</td>
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<tr>
<td>Todd Dearing</td>
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<td></td>
<td>EFO</td>
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<tr>
<td>Bud Groover</td>
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<tr>
<td>Kevin Nickell</td>
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<td>405 530 5796</td>
<td>Love's</td>
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<td>Ted Lowery</td>
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<td>Gerald Henry</td>
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<td>StankTech</td>
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### ATTENDANCE SIGN-IN

**OKLAHOMA CORPORATION COMMISSION**

**Public Hearing, Courtroom 301**

**December 10, 2019 @ 9:30 a.m.**

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<td>Chris Snow</td>
<td><a href="mailto:chris.e.morris@gmail.com">chris.e.morris@gmail.com</a></td>
<td>405-713-1873</td>
<td>Downtown</td>
</tr>
<tr>
<td>Candace Morris</td>
<td><a href="mailto:candace@opmca4you.com">candace@opmca4you.com</a></td>
<td>405-842-6425</td>
<td>OPMCA</td>
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BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:15, FUEL INSPECTION

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed rules regarding Title 165, Chapter 15 of the Oklahoma Administrative Code ("OAC").

I. Brief description of the purpose of the proposed rules:

The purpose of the proposed rules is to make certain definitions consistent with those in other chapters; to add definitions for maintenance and observation well; to strike definitions defined in statute or not otherwise used in the rules; to clarify that a retail facility with aboveground storage tanks must provide a safe means of returning motor fuel used for calibrating dispensers back to the storage tank; and to designate the color of storage tanks that contain E15 motor fuel.

The purpose of the proposed rules is also to clarify that the price of fuel advertised on the store marquee and the price at the dispenser must be the same; to clarify which violations can be immediately turned over to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action; to clarify a storage tank system can be shut down pending correction of a violation or a hearing; and to correct a grammatical error.

Further, the purpose of the proposed rules is to clarify that if an owner disagrees with the fine, the Field Citation instructs the owner regarding appearing at a hearing; to clarify terminology related to a violation of PSTD rules; to strike unnecessary language; to clarify terminology related to a tank system shutdown; and to add language consistent with OAC 165:5.

II. Description of the classes of persons who most likely will be affected by the proposed rules, including classes that will bear the costs of the proposed rules, and any information on cost impacts received by the agency from any private or public entities:

The persons most likely to be affected by the proposed rules are owners and operators of storage tanks and regulated entities. The classes affected will bear the cost, if any, of these proposed rules. The proposed rules change operating procedures, practices and requirements.

The PSTD, in its Notice of Proposed Rulemaking, has requested that business entities that are expected to see a cost increase as a result of compliance with the proposed rulemaking provide written comments stating cost impact information to the Commission. All registered storage tank
owners were advised of the Notice of Proposed Rulemaking through GovDelivery subscription. As of the date of preparation of this Rule Impact Statement, the PSTD has received no cost impact statements from any private or public entity. If any such comments are received by the PSTD, they will be considered by Staff.

III. Classes of persons who will benefit from the proposed rules:

The persons benefiting from the proposed rules are members of the public purchasing PSTD regulated substances, regulated entities and owners and operators of storage tank systems doing business within the State.

IV. Description of the probable economic impact of the proposed rules upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

PSTD does not believe there will be any economic impact upon affected classes of persons or political subdivisions. The proposed rules do not propose any fee changes.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rules, the source of revenue to be used for implementation and enforcement of the proposed rules, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

There is no expected extra cost for the Commission or any other agency to implement and enforce the proposed rules. The benefit to the agency of these proposed rules will be regulatory efficiency. The source of revenue to be used for implementation and enforcement of the proposed rules will be the Petroleum Storage Tank Indemnity Fund, which is the current source of revenue for compliance. The PSTD receives no appropriated funds for the administration of the petroleum storage tank program. The proposed rules contain no fee changes. There is no anticipated effect on state revenue.

VI. Determination of whether implementation of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

It is not anticipated that implementation and enforcement of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.
VII. Determination of whether implementation of the proposed rules may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

PSTD has considered the possible and potential economic impact of the proposed rules, and it is not anticipated that the proposed rules will have an adverse economic effect on small businesses.

VIII. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules:

The proposed rules do not increase compliance costs, and there are no nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules.

IX. Determination of the effect of the proposed rules on the public health, safety and environment and, if the proposed rules are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rules will reduce the risk:

It is anticipated that the proposed rules will not have an adverse effect on the public health, safety, and environment.

X. Determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:

It is anticipated that there will be no detrimental effect on the public health, safety, and environment if the proposed rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 4th day of October, 2019.

Prepared by:

Travis N. Weedn, OBA #32139
Deputy General Counsel
Judicial & Legislative Services Division
OKLAHOMA CORPORATION COMMISSION
P.O. Box 52000
Oklahoma City, Oklahoma 73152
Ph: (405) 521-4137; Fax: (405) 521-4150
Email: Travis.Weedn@occ.ok.gov
Attorney for the Petroleum Storage Tank Division
BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA
IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:15, FUEL INSPECTION

CAUSE NO. RM 201900005

ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT

Pursuant to 27A O.S. § 1-1-206, the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") submits the following Economic Impact and Environmental Benefit Statement for its proposed rules regarding Title 165, Chapter 15 of the Oklahoma Administrative Code ("OAC").

I. Economic Impact of the Proposed Rules:

The proposed rulemaking should have no adverse economic impact upon the affected owners and operators of petroleum storage tanks located in the state. In addition, the proposed rules should have no adverse economic impact on regulated entities.

II. Environmental Benefit of the Proposed Rules:

Revising the requirements for fuel inspection will enhance owner/operator diligence and help protect human health, safety and the environment.

III. Date of Preparation of Economic Impact and Environmental Benefit Statement:

This Economic Impact and Environmental Benefit Statement was prepared on October 4, 2019.

Prepared by:

Travis N. Weedn OBA # 32139
Deputy General Counsel
Judicial & Legislative Services Division
OKLAHOMA CORPORATION COMMISSION
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Attorney for Petroleum Storage Tank Division

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Title 165. Corporation Commission
Chapter 15. Fuel Inspection


165:15-1-2. Definitions

In addition to the terms defined in 17 O.S. §§ 301 et seq., the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"API (American Petroleum Institute) gravity scale" means the gravity scale in general use by the petroleum industry in the United States.

"ASTM" means the American Society for Testing and Materials. The latest ASTM revision must be the test used and is expressly incorporated in this Chapter.

"ATG" means an automatic tank gauging system.

"Aboveground storage tank" or "AST" means any stationary tank and individual compartments not included within the definition of an underground storage tank in Oklahoma Administrative Code (OAC) 165:25-1-11, which is designed to contain any PSTD-regulated substances without structural support of earthen material a "Storage tank" as defined in 17 O.S. § 303(40) that has more than ninety percent (90%) of its volume above the surface of the ground.

"Aboveground storage tank system" means an aboveground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers and associated equipment and fixtures or transport truck connected to the storage tank system.

"Airport" means landing facility for aircraft that is routinely available for public use (whether routinely used or not). Airports as used in this Chapter do not include private residential airstrips or private airports.

"Analog type" means an indicating element or a system of indication or recording in which values are presented as a series of numbered graduations in combination with an index, and in which the most sensitive element of the indicating system moves continuously during the operation of the device.

"Ancillary equipment" means any device including, but not limited to, devices such as piping, fittings, flanges, valves, and pumps that are used to distribute, meter, or control the flow of regulated substances to or from a petroleum storage tank.

"Approval seal" means an inspection label or tag pasted on the face of a dispenser indicating its official approval, showing day, month, and year.
"Aviation gasoline" means a volatile hydrocarbon fuel suitable for use in an aircraft internal combustion engine.

"Bulk plant" means a petroleum storage tank facility where regulated substances are received by tank vessels, pipelines, tank cars or tank vehicles and are stored or blended in mass quantities or bulk for the purpose of distribution by a tank vessel, pipeline, tank car, tank vehicle, portable tank or other container, for wholesale or retail sale.

"Calibrate" or "Calibration" means the comparison of the indicated volume to the volume actually delivered by a retail or wholesale device into a certified test measure, prover, or through a second accurate meter.

"Cathodic protection" means a technique designed to prevent the corrosion of a metal surface by making it the cathode of an electrochemical cell. For example, protection can be accomplished with an impressed current system or a galvanic anode system.

"Change in service" means a change in the status of a storage tank (i.e., from currently in use to temporarily out of use), change of regulated substance that a storage tank contains.

"Computing type" means a device designed to indicate and measure the total money value of product for one of a series of unit prices.

"Digital type" means a system of indicating or recording that advances intermittently in which all values are presented digitally and without graduations.

"Dry hose type" means a device in which the discharge hose must be completely drained following the mechanical operations involved in each delivery.

"Face of the dispenser" means that side of a measuring device that displays the quantity measured. The face must include an indicator and a series of graduations or present values digitally. It is the side of the dispenser where the unit price, volume dispensed, and dollar amount of the sale appear.

"Fuel" or "motor fuel" means any petroleum product, oxygenate, or blend of products suitable for use in an internal combustion or diesel engine.

"Fuel Specialist" means any field inspector employed by the Compliance and Inspection Department of the Petroleum Storage Tank Division of the Oklahoma Corporation Commission.

"Formal Enforcement Action" means the process of ensuring compliance with Commission regulations, rules, orders, requirements, standards, and/or state law when a violation occurs and PSTD initiates an enforcement Complaint under the contempt procedure in OAC 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Gasoline" means a volatile unleaded fuel that is suitable for use in a spark ignition, internal combustion engine.

"Gum" means the evaporation residue of aircraft gasoline or the heptane insoluble portion of the evaporation residue of motor gasoline.

"Important building" means a building that is considered not expendable in an exposure fire.

"Index of an indicator" means that particular portion of an indicator that is directly used in making a reading.

"Indicating element" means that component located on the face of the dispenser that signifies the amount relative to a quantity measured by a measuring device.

"Isooctane" means a pure hydrocarbon 2,2,4-trimethylpentane used as a reference fuel that has an octane rating of one hundred.

"Kerosene" means a refined hydrocarbon fuel intended for use in heating and illumination.
"Liquid measuring device" or "liquid fuel device" means any and all measuring devices (retail, wholesale, or vehicle tank measure) with which gasoline, motor fuel, kerosene, motor oil, diesel fuel, or aviation gasoline is sold, dispensed, or delivered to the public or to any person for any purpose.

"MtBE" means methyl tertiary butyl used as a component in gasoline.

"Maintenance" means the normal operational upkeep necessary to prevent a petroleum storage tank system from releasing product.

"Measuring device" or "meter" means all measuring devices (retail, wholesale, or vehicle tank measure) with which gasoline, motor fuel, kerosene, motor oil, diesel fuel, or aviation gasoline is sold, dispensed, or delivered to the public or to any person for any purpose a measuring device as defined in 17 O.S. § 303(23).

"Motor fuel" or "fuel" means any petroleum product, oxygenate, or blend of products, that is suitable for use as a fuel in an internal combustion or diesel engine.

"NACE" means the National Association of Corrosion Engineers.

"N-heptane" means a pure hydrocarbon used as a reference fuel with an assigned octane rating of zero.

"Observation Well" means a cased and screened boring or drilled hole, installed within the tank excavation or piping trench that can be used for the continuous or periodic evaluation of groundwater quality or the detection of soil vapors as a method of release detection.

"Octane", or "octane number", or "octane rating" means the antiknock quality of gasoline as determined by either the ASTM Research Method or the ASTM Motor Method.

"Oxygenate" means ethyl alcohol, MtBE, TAME, or other oxygen-containing, ashless organic compounds.

"Permanent out of use" or "POU" means a petroleum storage tank system that is not in service/use, does not contain regulated substances, and is not intended to be placed back in service/use.

"Petroleum" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel the substances as set forth in 17 O.S. § 303(31). It does not include 100% biodiesel, compressed natural gas, liquid natural gas, methanol, and or propane.

"Primary indicating elements" or "recording elements" means those principal visual indicating elements and recording elements that may be used by an owner or operator in the normal commercial use of a device and which are readily visible to the public.

"Private airport" means an airport used only by its owner and regulated by PSTD as a fleet and commercial facility.

"Private airstrip" means a personal residential takeoff and landing facility attached to the airstrip owner's residential property.

"PSTD" means Petroleum Storage Tank Division.

"(R+M)/2" means the arithmetic mean of the ASTM Research Method (R) and the ASTM Motor Method (M) octane numbers, and is the octane rating.

"Regulated substance" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel as set forth in 17 O.S. § 305. It does not include compressed natural gas, liquid natural gas and or propane.

"Retail device" means a measuring device or mechanism designed for single deliveries of PSTD regulated substances to individual land, air, and water vehicles.

"Retail-level facility" means all places of business where a service station, convenience store or any other facility selling a PSTD regulated substances are dispensed or delivered directly into
the tank of the consuming vehicle or receptacle, and may include bulk agents, consignment agents, distributors, or jobbers substance that is open to the general public.

"SIR" means Statistical Inventory Reconciliation.

"Security Seal" or "seal" or "lock/locking mechanism" means a lead and wire seal, lock or locking device, or similar device, attached to a petroleum storage tank system for protection against access, removal, or adjustment.

"TAME" means tertiary amyl methyl ether for use as a component in gasoline.

"Temporary out of use" or "TOU" means the status of a petroleum storage tank system that has been taken out of service/use with the intent to permanently close or return to service.

"Tolerance" means a value fixing the limit of allowable error or departure from the highest performance or value.

"Transport calibration" or "truck calibration" means the volume held to the designated marker as determined by the addition of a calibration fluid to the compartment from an accurate meter or from provers.

"Underground storage tank" or "UST" means a regulated storage tank and individual compartments, including underground piping. "Storage tank" as defined in 17 O.S. § 303(40) that has 10 percent (10%) or more of its volume beneath the surface of the ground.

"Underground storage tank system" means an underground storage tank a closed-plumbed system including, but not limited to the underground storage tank(s), the individual storage tank compartments, and any connected aboveground or underground piping, dispensers the lines, dispenser for a given product, containment sump, if any, and ancillary equipment or transport a delivery truck that is connected to the storage tank system.

"Visible type" means a type of device in which the measurement takes place in visible glass measuring chambers.

"Wet-hose type" means a device designed to be operated with the discharge hose full of liquid at all times.

"Wholesale device" means any device other than a retail device.

SUBCHAPTER 3. FUEL SPECIALISTS, TESTING, ACCESSIBILITY, AND ASSISTANCE

PART 11. ACCESSIBILITY AND ASSISTANCE

165:15-3-32. Retail-outlet facility with aboveground storage tanks
(a) At a retail-outlet facility with aboveground storage tanks, the owner or operator must provide a safe means of returning motor fuel to the storage tank or tanks used in checking the calibration of the measuring devices.
(b) When the fuel return opening to the storage tank is reached only by the use of steps, stairs, or a ladder, or is not located at ground level, the owner or operator must:
   (1) Provide safe containers with sufficient volume to complete a required inspection.
   (2) Label each container with the particular contents of product being stored.
   (3) Store containers outside the diked area.
   (4) Properly dispose of the product used in checking the calibration in accordance with applicable law.
SUBCHAPTER 13. LABELING OF TANKS AND PRODUCT LINES

165:15-13-1. General identification and color coding requirements

(a) All storage tanks subject to the rules of this Chapter must be marked with a tag, lettering, or other permanent marking on the fill neck and color coded on the overfill sump lids to identify the type, grade, or quality of regulated substance they contain.

(b) East of 99 degrees west longitude, color coded markings must be:

(1) Unleaded motor fuel, 91 octane or above: red.
(2) Unleaded motor fuel, 89 or 90 octane: blue.
(3) Unleaded motor fuel, 86 through 88 octane: white.
(4) Diesel motor fuel: yellow.
(5) Kerosene: brown.
(6) Dyed diesel: half yellow, half red.
(7) Unleaded 87 octane E10: white with black "X" and a black border around lid.
(8) Premium unleaded 91 octane E10: red with black "X" and a black border around lid.
(9) E15: E15 tanks must be designated "E15" in black with a black border around lid, and the colors referenced above for unleaded motor fuel, 86 through 91 octane, should be used for the lid.

(c) West of 99 degrees west longitude, color coded markings must be:

(1) Unleaded motor fuel, 90 octane or above: red.
(2) Unleaded motor fuel, 88 or 89 octane: blue.
(3) Unleaded motor fuel, 86 or 87 octane: white.
(4) Diesel motor fuel: yellow.
(5) Kerosene: brown.
(6) Dyed diesel: half yellow, half red.
(7) Unleaded 87 octane E10: white with black "X" and a black border around lid.
(8) Premium unleaded 91 octane E10: red with black "X" and a black border around lid.
(9) E15: E15 tanks must be designated "E15" in black with a black border around lid, and the colors referenced above for unleaded motor fuel, 86 through 91 octane, should be used for the lid.

(9)(10) Biodiesel: bronze with yellow and black border around lid.

(10)(11) Ethanol blending tank for E85: orange with black "X" and a black border around lid.

(d) Products containing extenders (oxygenates) such as ethanol shall be designated by the addition of a black border around a black "X".

(e) Vapor-recovery connections and manholes shall be marked with orange circles.

(f) Observation and monitoring wells shall be marked with a black triangle on a white background.

(1) At all facilities with more than one tank, the color coding applied to the fill cap or manhole cover shall extend beyond the edge of the cap or cover onto adjacent concrete or pavement.

(g) The tag labeling and color coding must be waterproofed and fuel-proofed material so that the type, grade, or quality of the motor fuel is readily visible to persons adding to or taking a sample from the line or storage tank.
SUBCHAPTER 15. LIQUID MEASURING DEVICES

PART 7. MONEY VALUES AND VOLUMES DISPENSED

165:15-15-35. Money value display and computation
(a) On a retail device. Money value computations (on a retail device) must be of the full computing type in which the money value at a single unit price, or at each of a series of unit prices, is computed for every delivery within either the range of measurement of the liquid measuring device or the range of the computing elements, whichever is less. Any analog money value indication must not differ from the mathematically computed money value (Quantity X Unit Price = Sales Price), for any delivered quantity, by an amount greater than one-half the value of the money value division. Value graduations must be supplied and accurately positioned. The value of each graduated interval must be 1 cent.
(b) "Cash" discount. When a discount for "cash" is offered, the discount must be paid inside the store, the discount is to be calculated, and the customer informed of the discounted amount. The cash discount price must not be posted on a marquee or remote billboards unless it is explicitly called a "cash price".
(c) Retail dispensing devices used in contract sales. Those retail motor fuel dispensing devices used in contracted sales, which are normally unattended and accessed and actuated by keys, cards and/or other coding mechanisms and which are not accessible to the general public, are not required to display unit prices nor to make money value computations for every delivery.
(d) Airport dispensing devices. Those retail motor fuel dispensing devices installed at airports for use in fueling aircraft are not required to display unit prices nor to make money value computations for every delivery.
(e) Advertised price. The price per gallon charged at the dispenser must be the same price advertised on the facility's marquee and remote billboards. The price per gallon advertised on the facility's marquee and remote billboards must be the same price charged at the dispenser.

SUBCHAPTER 19. INSPECTIONS, NOTICES OF VIOLATION, FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

165:15-19-3. Notices of Violation
(a) When a Petroleum Storage Tank Division Fuel Specialist finds a violation of any statute, rule, requirement or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation (NOV).
(b) Each violation that can have an NOV issued is listed in this Chapter, OAC 165:16, 165:25, and 165:26.
   (1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation and advise that further PSTD enforcement action may occur if the violation is not corrected. If the violation cannot be corrected, the violation will be referred to the PSTD Compliance and Inspection Manager or Director's designee who may initiate Formal Enforcement Action or issue a Field Citation.
   (2) At PSTD's discretion, egregious-serious violations can be immediately turned over to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action.
   (3) In all situations where an NOV is issued, it must explain to the person to whom it is given what the offense is and how the person can correct it.
(c) A Notice of Violation will state the following information:
   (1) A clear description of the violation(s).
   (2) A date by which the violation(s) are required to be corrected.
   (3) The name of the Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the Fuel Specialist questions.
(d) NOVs are issued to the owner or operator of the storage tank facility. If the owner or operator is not present, NOVs can be given to store personnel, but all notifications and/or correspondence will be mailed or electronically delivered to the owner and/or operator.

165:15-19-4. Re-inspection, Formal Enforcement and Field Citation
(a) After the date that the violation is required to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.
(b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist may:
   (1) Refer the violation to the Division's Compliance and Inspection Manager or the Director's designee who may initiate Formal Enforcement Action or issue a Field Citation; and/or
   (2) Shut down the storage tank facility pending a correction of the problem or a hearing on the issue.

165:15-19-5. Issuance of a Field Citation and payment of fine or hearing
(a) The storage tank owner or operator can either pay the amount of the fine as stated in the Field Citation or request a hearing.
(b) The tank owner or operator will have thirty (30) days from the date the Field Citation was issued to pay the fine.
   (1) A fine may be paid with cash, a money order, check or electronic method approved by the Commission. Any cash payment must be made at the Commission's cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the Field Citation must be sent with the payment to ensure proper credit.
   (2) Payment of a fine within the thirty (30) day timeframe will not be considered an agreement or disagreement with the Field Citation.
(c) If the storage tank owner or operator disagrees with the Field Citation, they may appear at the hearing at the Commission as provided in the Field Citation. If found guilty at the hearing in violation of PSTD rules at the time the Commission order is issued, the tank owner or operator must pay the amount of the fine, as well as an administrative cost of $250.00.
(d) If a Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine will double. Refusal to comply with an order of the Commission may result in an additional fine to be levied after notice and hearing in an amount as allowed by law, and shutdown of the facility storage tank system for failure to pay fines.
(e) Failure of a tank owner or operator to appear at the hearing may result in additional enforcement action.
(f) Any appeal from the hearing must be made in accordance with OAC 165:5.
(g) A tank owner or operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.
ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:15, Fuel Inspection, which were adopted by the Oklahoma Corporation Commission on December 10, 2019, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S. §§ 250 et seq.

I, the undersigned do hereby attest that such rules were finally adopted in substantial compliance with the Administrative Procedures Act.

Travis N. Weedn
Rules Liaison and Attestation Officer
OKLAHOMA CORPORATION COMMISSION
December 20, 2019
LIAISON VERIFICATION:

I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the Administrative Procedures Act and the rules of the Secretary of State. Additional information may be obtained by contacting me at (405) 521-4137.

Travis N. Weedn
Rules Liaison
OKLAHOMA CORPORATION COMMISSION
December 20, 2019