

TNW

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 201800003

FILED
OCT 16 2018

NOTICE OF PROPOSED RULEMAKING

**COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA**

NOTICE IS HEREBY GIVEN that the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Fuel Inspection rules that are set forth in Oklahoma Administrative Code ("OAC") 165:15. The proposed changes add inspections to the fuel inspection rules; strike a statute citation; define formal enforcement action; strike the definition for a device no longer allowed; define important building; correct applicable rule chapters and add statutes to the rule; clarify samples of PSTD regulated substances may be obtained for testing; clarify testing methods; strike a temporary release detection method no longer allowed; clarify manual tank gauging can only be used on tanks 1;000 gallons or less; update the rule numbering to reflect changes; correct a grammatical error; strike motor fuel from the description of kerosene; clarify that enforcement may occur if a violation is not corrected; clarify procedures for notification and correspondence; clarify the procedure when a follow-up inspection indicates a violation has not been corrected; clarify the procedure for issuing a Field Citation; correct grammatical errors; and update terminology.

The proposed amended rules for OAC 165:15 are as follows:

OAC 165:15-1-1 is amended to add inspection to the fuel inspection rules.

OAC 165:15-1-2 is amended to strike a statute citation, add a definition for Formal Enforcement Action, to strike the definition for a device no longer allowed, and to add a definition for Important Building.

OAC 165:15-3-2 is amended to correct applicable rule chapters and add statutes to the rule.

OAC 165:15-3-10 is amended to clarify that samples of PSTD regulated substances may be obtained for testing.

OAC 165:15-3-11 is amended to clarify to testing methods.

OAC 165:15-3-21 is amended to strike a temporary release detection method no longer allowed, to clarify manual tank gauging can only be used on tanks 1,000 gallons or less, to update the rule numbering to reflect changes, and to correct a grammatical error.

OAC 165:15-3-22 is amended to correct grammatical errors and to clarify terminology.

OAC 165:15-3-25 is amended to correct grammatical errors.

OAC 165:15-9-1 is amended to update terminology and correct grammatical errors.

OAC 165:15-13-1 is amended to update terminology and strike motor fuel from the description of kerosene.

OAC 165:15-19-2 is amended to strike a statute citation.

OAC 165:15-19-3 is amended to correct grammatical errors, to clarify that enforcement may occur if a violation is not corrected, and to clarify how notification and correspondence are sent.

OAC 165:15-19-4 is amended to clarify procedures when a follow-up inspection indicates a violation has not been corrected.

OAC 165:15-19-5 is amended to clarify the procedure for issuing a Field Citation.

NOTICE IS FURTHER GIVEN that the Commission has jurisdiction to initiate this permanent rulemaking pursuant to the Oklahoma Administrative Procedures Act 75 O.S. §§ 250 *et seq.*; 17 O.S. §§ 306(12), 307, 322; 52 O.S. §§ 325, 347 (Please note that this citation changes on November 1, 2018, to 17 O.S. §§ 342, 347).; and Article IX, Section 18 of the Oklahoma Constitution.

NOTICE IS FURTHER GIVEN that it is necessary to adopt permanent rules regarding Fuel Inspection. Upon adoption of the permanent rules proposed herein, by the Commission, the proposed rules shall be submitted to the Governor and the Oklahoma Legislature for approval as permanent rules.

NOTICE IS FURTHER GIVEN that the proposed rules will be made available for public inspection at the Commission's Oklahoma City Court Clerk's Office, First Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, OK 73105. A copy of the proposed rules may be requested by phone at (405) 521-2352, email at courtclerk@occemail.com, or by visit to the Commission's Oklahoma City Court Clerk's Office. The proposed rules are also accessible on the Commission's website at <http://www.occeweb.com> and may be downloaded at no cost to the end user.

NOTICE IS FURTHER GIVEN that the Rule Impact Statement pursuant to 75 O.S. § 303(D) and the Economic Impact –Environmental Benefit Statement pursuant to 27A O.S. § 1-1-206 will be timely prepared and made available for public inspection in the Commission's Court Clerk's Office, First Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105, no later than fifteen (15) days after the date of publication of this Notice of Proposed Rulemaking.

NOTICE IS FURTHER GIVEN that the Petroleum Storage Tank Division will have **technical conferences on November 7, 2018 at 1:30 p.m. and December 5, 2018 at 1:30 p.m.** in Courtroom 301, Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. All parties interested in the proposed rules are urged and welcome to attend. One or more of the Commissioners may be present at the technical conferences and may participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

NOTICE IS FURTHER GIVEN that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before December 28, 2018.** Those persons interested in submitting comments should file one (1) copy of their comments, referring to Cause No. RM 201800003, with the Commission's Court Clerk's Office. The comments will be made available for public inspection by telephone, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

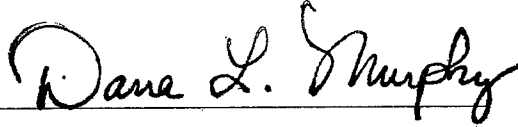
Pursuant to 75 O.S. §§ 303 and 504, business entities are requested, if the proposed rules adversely affect such entities, to provide to the Commission in writing, a description of the probable quantitative (costs) and qualitative impact of the proposed rule, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences.

NOTICE IS FURTHER GIVEN that at **9:30 a.m., January 15, 2019 in Courtroom 301** of the Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, the Commission shall meet, hold a public hearing on, and consider adoption of the proposed permanent rule(s).

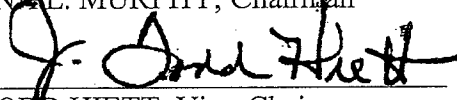
NOTICE IS FURTHER GIVEN that further information and inquiries regarding this proposed rulemaking should be directed to Travis N. Weedn, Senior Attorney, by telephone (405) 521-4137, e-mail T.Weedn@occcemail.com, facsimile (405) 521-4150, or at Room 400, Jim

Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, or
Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

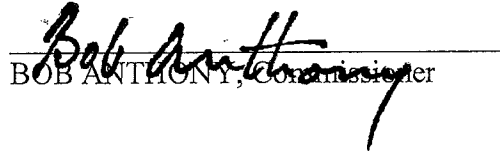
CORPORATION COMMISSION OF OKLAHOMA



DANA L. MURPHY, Chairman



J. TODD HIETT, Vice-Chairman

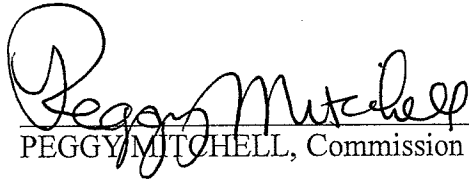


BOB ANTHONY, Commissioner

CERTIFICATION

DONE and PERFORMED this 16 day of October, 2018 BY ORDER OF THE
COMMISSION:

[Seal]



PEGGY MITCHELL, Commission Secretary