

**AGENCY RULE REPORT  
OKLAHOMA CORPORATION COMMISSION  
PERMANENT RULEMAKING  
OAC 165:15. FUEL INSPECTION  
CAUSE NO. RM 202100006**

**FILED**  
FEB 17 2022  
COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

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, the Honorable Charles McCall, Speaker of the House of Representatives, the Honorable Mike Osborn, Chair of the House Rules Committee, and the Honorable Julie Daniels, Co-Chair of the Senate Rules Committee.

**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 December 30, 2021.

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  
Subchapter 7. Specifications, Standards, and Labeling for Motor Fuels  
165:15-7-5. Diesel fuel [AMENDED]  
Subchapter 13. Labeling of Tanks and Product Lines  
165:15-13-1. General identification and color coding requirements [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 C.F.R. §§ 280 *et seq.*

**6. STATEMENT OF THE GIST OF THE RULES AND BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULES:**

The adopted rules update a statutory citation and adopt the American Petroleum Institute's ("API") Recommended Practice 1637 color system.

**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.

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

On February 10, 2022, the rules were adopted in a public hearing held in Courtroom 301, 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:**

**Summary of Written Comments:**

No written comments were received.

**Summary of Public Meeting Comments:**

The first Technical Conference was held on January 13, 2022, 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. Commissioners Murphy and Hiatt attended the Technical Conference. Oral comments were requested; however, none were provided during the technical conference.

The second Technical Conference was held on February 1, 2022, 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. Oral comments were requested; however, none were provided during the technical conference.

A public hearing took place before the Commission on February 10, 2022, 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 comments were requested; however, none were presented to the Commission prior to adoption. No parties appeared before the Commission to object to the proposed rules.

The Commission considered the draft rules filed on December 28, 2021. After acknowledging that no written or oral comments were submitted for consideration, the Commission voted to approve the December 28, 2021, 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 January 13, 2022, 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 February 1, 2022, 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 February 10, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**11. RULE IMPACT STATEMENT:**

**Appendix "D"** is a copy of the Rule Impact Statement, filed with the Commission on January 10, 2022.

**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 January 10, 2022.

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

In OAC 165:15-13-1, API Recommended Practice 1637 color symbol system.

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

On February 10, 2022, Commissioners Dana L. Murphy, Bob Anthony, and J. Todd Hiatt, 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 *et seq.*

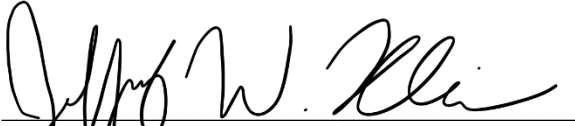
**15. PROPOSED EFFECTIVE DATE OF ADOPTED RULES:**

The rules adopted by the Commission on February 10, 2022, are attached as **Appendix "F"**. The proposed effective date is August 1, 2022.

**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 February 10, 2022, 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.



**Jeff W. Kline**

Rules Liaison

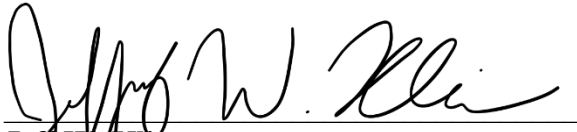
OKLAHOMA CORPORATION COMMISSION

February 17, 2022

Name of Agency: Corporation Commission  
Type of Document: Agency Rule Report

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) 521-2308.

A handwritten signature in black ink, appearing to read "Jeff W. Kline", written over a horizontal line.

**Jeff W. Kline**  
Rules Liaison

OKLAHOMA CORPORATION COMMISSION  
February 17, 2022

# APPENDIX A





## APPENDIX B



## APPENDIX C



## APPENDIX D

**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 202100006**

**FILED**  
JAN 10 2022

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CORPORATION COMMISSION  
OF OKLAHOMA

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**RULE IMPACT STATEMENT**

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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 update a statutory citation and adopt the American Petroleum Institute’s (“API”) Recommended Practice 1637 color system.

**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, and bear the costs of, the proposed rules are owners and operators of storage tanks and regulated entities. In the Notice of Proposed Rulemaking, the PSTD requested that business entities submit written comments to the Commission with cost impact information. 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.

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

The persons benefiting from the proposed rules are members of the general public who purchase PSTD regulated substances, as well as 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 rules:**

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:**

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.

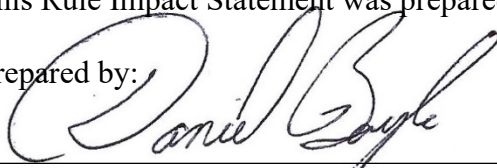
**X. Determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:**

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 10<sup>th</sup> day of January 2022.

Prepared by:



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**Daniel Patrick Boyle, OBA #32958**

Attorney

Judicial & Legal Services Division

OKLAHOMA CORPORATION COMMISSION

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Oklahoma City, Oklahoma 73152

Ph: (405) 521-4749; Fax: (405) 521-4150

Email: Daniel.Boyle@occ.ok.gov

*Attorney for the Petroleum Storage Tank Division*



## APPENDIX E

**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 202100006**

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**ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT**

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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:**

It is not anticipated that the proposed rules will have an adverse economic impact upon the affected owners and operators of petroleum storage tanks located in the State. Additionally, it is not anticipated that the proposed rules will have an adverse economic impact on regulated entities.

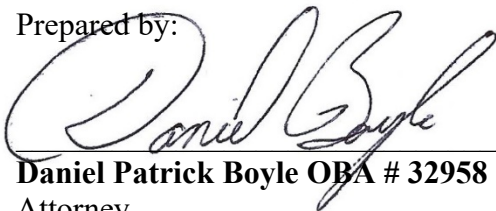
**II. Environmental Benefit of the Proposed Rules:**

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 January 10, 2022.

Prepared by:



**Daniel Patrick Boyle OBA # 32958**

Attorney

Judicial & Legal Services Division

OKLAHOMA CORPORATION COMMISSION

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*Attorney for Petroleum Storage Tank Division*

**FILED**  
JAN 10 2022

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CORPORATION COMMISSION  
OF OKLAHOMA

## APPENDIX F

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 15. FUEL INSPECTION**

**SUBCHAPTER 7. SPECIFICATIONS, STANDARDS, AND LABELING  
FOR MOTOR FUELS**

**165:15-7-5. Diesel fuel**

The standard classification of diesel fuel, as described in ASTM D 975 and biodiesel as described in ~~52 O.S. §325~~ 17 O.S. §303, must be used.

**SUBCHAPTER 13. LABELING OF TANKS AND PRODUCT LINES**

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

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 ~~overflow sump tank fill~~ lids to identify the type, grade, or quality of regulated substance they contain in accordance with American Petroleum Institute (API) Recommended Practice 1637 color symbol system.

~~(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.~~
- ~~(10) Biodiesel: bronze with yellow and black border around lid.~~
- ~~(11) E85: orange with black "X" and a black border around 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.~~
- ~~(10) Biodiesel: bronze with yellow and black border around lid.~~
- ~~(11) E85: orange with black "X" and a black border around lid.~~

~~(d) Vapor recovery connections and manholes shall be marked with orange circles.~~

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

~~(f) 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.~~