

Ag 112

STATE OF WISCONSIN)
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DEPARTMENT OF AGRICULTURE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, Donald E. Wilkinson, Secretary of Agriculture, and custodian of the official records of the State of Wisconsin Department of Agriculture, do hereby certify that the annexed order repealing and recreating rules relating to motor fuel trade practices, Wis. Adm. Code chapter Ag 112, was duly adopted by this department on April 7, 1972.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN WITNESS WHEREOF, I have hereunto set my hand at Madison, Wisconsin, this 10th day of April, 1972.


Secretary of Agriculture

Docket No. 921.

ORDER OF THE DEPARTMENT OF AGRICULTURE
REPEALING AND RECREATING RULES

Pursuant to authority vested in the Department of Agriculture by section 100.20, Wis. Stats., the Department of Agriculture hereby repeals and recreates rules as follows:

Chapter Ag 112 of the Wisconsin administrative code is repealed and recreated to read:

Chapter Ag 112

MOTOR FUEL TRADE PRACTICES

Ag 112.01 Definitions. As used in this chapter and in Wis. Adm. Code chapter Ag 113, the following terms are defined as follows:

(1) "Retailer", "wholesaler", "sell at retail" and "sell at wholesale" shall have the same meanings as those terms have in section 100.30 (2), Wis. Stats.

(2) "Supplier" means a person who manufactures motor fuels or who is a controlled subsidiary of one who manufactures motor fuels and is engaged in the business of selling motor fuels to wholesalers, retailers or consumers.

(3) "Motor fuel" includes motor fuels and special fuels as defined in chapter 78, Wis. Stats.

(4) "Person" means any individual, sole proprietorship, partnership, corporation or other business entity or any individual acting on behalf of any individual, sole proprietorship, partnership, corporation or other business entity.

Ag 112.02 Discrimination. (1) No supplier or wholesaler of motor fuel shall enter into any agreement or arrangement whereby directly or indirectly discrimination is made in the price at which said supplier or wholesaler sells motor fuel to wholesalers or retailers thereof, where the effect of such discrimination may be to substantially lessen competition or to tend to create a monopoly, or to injure, destroy or prevent competition with any person in the marketing of motor fuel in the community in which said supplier or wholesaler is thus selling at a lower price; provided, that it shall be a justification for such a discrimination in price if the difference, made by said supplier or wholesaler in the price to the wholesaler or retailer to whom said supplier or wholesaler sells at a lower figure, is merely commensurate with an actual difference in the quality or quantity of motor fuel sold to said wholesaler or retailer or in the transportation charges or other expense of marketing involved in the sale to said wholesaler or retailer. Nothing herein contained shall prevent a seller from showing that his lower price was made in good faith to meet an equally low price of a competitor.

(2) No person any part of whose business is the sale of motor fuel to wholesalers shall sell motor fuel for ultimate consumption or use at a price lower than that at which he sells to such wholesaler unless such lower price is justified as provided in subsection (1).

Ag 112.03 Coercion. No supplier or wholesaler shall threaten any of his customers with any price discrimination or use any form of coercion with the purpose or effect of changing or maintaining

resale prices of such customer.

Ag 112.04 Price posting. (1) Every wholesaler or retailer of motor fuel shall post in a conspicuous interior place easily accessible to the public at each location at which he sells such products a placard showing:

(a) The total selling price per gallon before any discounts of each grade of motor fuel sold at such location, including state and federal tax.

(b) The amount of state and federal tax per gallon.

(c) The amount per gallon of any discounts offered and the conditions upon which offered.

(d) When applicable, the cash redemptive value of trading stamps in relationship to the price per gallon or dollar basis as part of the sale.

(e) When applicable, a statement that merchandise is offered or given as part of the sale.

(f) The date and time the posted prices went into effect. Prices posted shall remain in effect not less than 24 hours.

(g) The amount of any discount or other price concession offered to any class of customers.

(2) Meters on pumps or other dispensing equipment shall be set to conform to the total selling price shown on the placard as required by paragraphs (a) and (b) of subsection (1). Any other advertising of price of motor fuel shall be at the total selling price as posted and shall be on a per gallon basis, provided, however, such advertising may, in addition, give details as to

discounts and the monetary value of sales inducements.

(3) Prices shall be the same for the same grade of motor fuel at every pump or other dispensing outlet, except truck islands, self-service pumps or limited service pumps at any one location.

Ag 112.05 Price logging. (1) Every supplier, wholesaler and retailer of motor fuel shall maintain a price log which records the price of each grade of motor fuel sold by him, together with the date and time of any price change. This log may be composed of copies of the posting placards required under section Ag 112.04. Records of such prices shall be retained at his principal place of business or other location conveniently accessible for 3 years and shall be made available upon request of the department.

(2) Any person required to maintain a price log under this section who intends to rely upon the defense of meeting competition, in the event of an alleged violation of the laws of the state or general or special orders of the department, shall include in his price log a reference to any evidence or documentation of such lower competitive price. Such evidence or documentation also shall be made available at the request of the department.

Ag 112.06 Special offers. (1) No person shall advertise any reduction in the price of motor fuel or any inducement for the sale of motor fuel as a temporary market entry device, a special promotion or a clearance, reduction or going out of business sale without indicating the period of time such sale or

promotion will remain in effect.

(2) No person shall advertise the price of motor fuel as a special or temporary promotion if such price remains in effect for a period in excess of 30 days.

Ag 112.07 Price signs. All printed or display advertising of the price of motor fuel at the location at which it is sold, except the placards required herein and the meters on pumps and other dispensing equipment, shall:

(1) Include the grade and total selling price per gallon for every grade of motor fuel available at that location and use the same size numbers for the price of each grade in such advertising. Lettering identifying grades shall be readily identifiable from the street.

(2) Indicate whether discounts or trading stamps are offered in connection with the sale of motor fuels. Lettering identifying discounts or trading stamps shall be readily identifiable from the street.

Ag 112.08 Prohibited trade practices. No person advertising, offering for sale or selling any motor fuel shall:

(1) Substitute an inferior grade of motor fuel for that ordered by a buyer without the buyer's consent.

(2) Represent to any buyer that his purchase will entitle him to refer other buyers to the seller, and that such referrals will entitle him to a commission, compensation or any other reward, or that he will be entitled to future purchases at special or reduced prices as a result of such referrals.

(3) Offer any gift or prize tied in with a sale without full

and conspicuous disclosure of all terms of such offer, all conditions thereof and the expiration date of such offer, or fail to honor such offer. Advertise, offer to sell or give any item of merchandise or service in connection with the sale of motor fuel at a specific location unless such advertisement or offer states the price per gallon of motor fuel required to be purchased.

(4) Misrepresent that membership in an organization created by the seller will entitle a buyer to certain benefits, privileges or concessions not otherwise available to other buyers.

(5) Advertise or make claims for components, blending techniques or final quality of any motor fuel unless such person furnishes to the department upon request, factual data in support of such advertisements or claims.

The rules contained herein shall take effect on September 1, 1972.

Dated: April 7, 1972.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE

By Donald E. Wilkinson
Secretary of Agriculture