



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-081

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

I. Statutory Authority

The department should explain its statutory authority for the following provisions contained in the rule:

a. Section Comm 48.600 (1) (b) 3. provides that the statutory requirements for sampling an inspection will not apply to specialty motor fuels and petroleum products that will not be introduced into the wholesale or retail market stream. It does not appear that s. 168.05 (1) or (5), Stats., envisions this exception.

b. Section Comm 48.600 (2) (d) provides that the department may determine a reasonable length of time in which an inspector may take a sample following notice of receipt of a petroleum product. This provision does not appear to comport with the time lines in s. 168.05 (4), Stats.

c. Section Comm 48.600 (3) (b) eliminates the requirement that the department issue an inspection certificate if a petroleum product meets the specifications set forth in ch. Comm 48. This provision appears to conflict with the certification process in s. 168.07 (1), Stats.

d. Section Comm 48.600 (3) (c) eliminates the requirement that when a recipient takes a sample of a petroleum product it must be done in the presence of a disinterested witness. This provision appears to conflict with s. 168.05 (3), Stats.

e. Section Comm 48.600 (3) (c) 3. appears to provide that, after a sample is taken by the recipient of a petroleum product, the petroleum product may be unloaded, sold, offered for sale

or used without being sampled by an inspector. This provision appears to conflict with the inspection requirements of s. 168.07 (1), Stats.

2. Form, Style and Placement in Administrative Code

a. In a number of SECTIONS of the rule, renumbered provisions are successively treated a second time. This practice should be avoided. For example, s. Comm 48.03 should be treated in the following manner:

SECTION 4. Comm 48.03 (title), (intro.), and (1) (a) and (b) are renumbered Comm 48.300 (title), (intro.) and (1) (a) and (b), and Comm 48.300 (1) (a), as renumbered, is amended to read:

SECTION 5. Comm 48.03 (1) (c) is repealed.

SECTION 6. Comm 48.03 (1) (d) and (e) are renumbered Comm 48.300 (1) (c) and (d) and Comm 48.300 (1) (c) as renumbered, is amended to read:

b. In s. Comm 48.600 (3) (b) 1. and 48.650 (3), the phrase “this code” should be replaced by the phrase “this chapter.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Comm 48.300 (7), the word “Fuel” should be shown in lowercase.

b. In s. Comm 48.400 (1), the word “hereby” is unnecessary and should be deleted.