

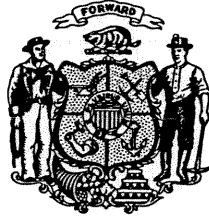
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-065

AN ORDER to repeal chapters Comm 11, 12 and 13; to amend Comm 43.12 and 43.26 (8); and to create chapter Comm 40, relating to gas systems and anhydrous ammonia.

Submitted by **DEPARTMENT OF COMMERCE**

03-31-99 RECEIVED BY LEGISLATIVE COUNCIL.

04-28-99 REPORT SENT TO AGENCY.

RS:DF:jal;rv

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CLEARINGHOUSE RULE 99-065

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 September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In s. Comm 40.002, the phrase "The rules of this chapter apply" should be replaced by the phrase "This chapter applies."
- b. In s. Comm 40.003, the word "shall" should be replaced by the word "does."
- c. In s. Comm 40.10 (2) (intro.), the phrase "all of" should be inserted after the word "contain." Also, to make sub. (2) (f) structurally consistent with the remaining paragraphs, par. (f) should be rewritten to read:

If the plans are for gas systems service stations involving the use of key, card or code dispensing units, the location of emergency controls and the location and details of the key, card or code operated dispensing devices.

- d. In s. Comm 40.14 (1), the phrase "The rules in this chapter" should be replaced by the phrase "This chapter." Also, in sub. (2) (c), the word "jurisdictional" is unnecessary and should be deleted.

- e. In s. Comm 40.30 (2) (intro.), the word "hereby" is unnecessary and should be deleted.

f. In s. Comm 40.40 (1), substitute "This subchapter applies" for "The rules of this subchapter apply." Also, after "employment," delete the period and "The rules also apply" and substitute "and." In sub. (2) (intro.), substitute "This subchapter does not" for "The rules of this subchapter do not," and substitute "any" for "all." Similar revisions should be made to ss. Comm 40.50 and 40.60.

g. In s. Comm 40.46 (1) (intro.), move the phrase "except one of the following" from the beginning of the introductory clause to the end of the introductory clause. Also, in sub. (2) (a) and (b), substitute "if" for "provided."

h. In ss. Comm 40.46 (4) and 46.49 (intro.), substitute "is" for "shall be."

i. In s. Comm 40.48, delete the first "and."

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

In s. Comm 40.10 (2) (a), substitute semicolons for the commas following "copies," "specifications" and "form." In sub. (2) (b), insert "and" before "the address" and a comma after "facility."



State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

Rule No.:

Chapters Comm 11, 12, 13 and 43

Relating to:

Gas Systems and Anhydrous Ammonia

ok

The Department of Commerce proposes an order to repeal chapters Comm 11, Comm 12 and Comm 13; to amend Comm 43.12 and Comm 43.26 (8); and to create chapter Comm 40, relating to gas systems and anhydrous ammonia.

Analysis of Proposed Rules

ok

Statutory authority: Sections 101.02 (15)(h) to (j), and 101.16, Stats.
Statutes interpreted: Sections 101.02 (15)(h) to (j), and 101.16, Stats.

The Division of Safety and Buildings within the Department of Commerce is responsible for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Chapters Comm 11, 12, 13 and 43 contain minimum safety standards for the design, construction, installation, operation, inspection, repair and maintenance of liquefied petroleum gas systems, liquefied natural gas systems, compressed natural gas systems and anhydrous ammonia systems.

The proposed rules consist of an update of chapters Comm 11, 12 and 13, and consolidating those 3 chapters into a new chapter Comm 40 entitled Gas Systems. In combining the 3 chapters, the rules have been made more uniform for all 3 gas systems. The proposed rules also contain 2 changes in the current rules for anhydrous ammonia systems. The following listing is a summary of the major changes in the proposed rules.

1. Deleting the requirements to submit a copy of the agreement and training program when plans are submitted for service stations involving the use of key, card or code dispensing units. [Comm 40.10 (2) (f)]
2. Adding a new requirement to liquefied petroleum gas systems and liquefied natural gas systems for submittal of plans when system revisions or modifications are made. [Comm 40.11]
3. Clarifying the rules for inspection of the gas system installations. [Comm 40.14 (2)]
4. Updating the national standards that are adopted by reference. [Comm 40.30]
5. Exempting liquefied petroleum gas facilities that are covered under chapter PSC 135. [Comm 40.40 (2) (b)]
6. Requiring department approval for liquefied petroleum gas installations where the aggregate water capacity of the installation will be 4000 gallons or larger, regardless of individual container sizes. [Comm 40.42]
7. Deleting the amendment to the NFPA 58 standard that allowed reduced setbacks for liquefied petroleum gas containers. [Comm 40.45]
8. Adding a new requirement to liquefied natural gas systems for completion of a certificate of installation form and submittal of a copy of the form to the local fire department. [Comm 40.52]

9. Requiring a breakaway device to be installed on all new and existing anhydrous ammonia installations. [Comm 43.26 (8)]

The proposed rules have been developed with the assistance of the Gas Systems Code Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Ed Aldridge	Growmark, Inc.
Bruce Barganz	Wisconsin Fertilizer & Chemical Association
Tim Clay	Wisconsin Federation of Cooperatives
David A. Duey	ANGI International
Kingsley H. Forbes	National Propane Gas Association
Donald Healy	Wisconsin Agri-Service Association
Art Herschberger	Wisconsin Propane Gas Association
Bruce Kleespie	Kleespie Tank & Petroleum Equipment
Gary Puljas	Wisconsin Fire Inspectors Association
Gene Reece	Wisconsin State Fire Chiefs Association
John Wehmeier	Wisconsin Utilities Association

SECTION 1. Chapters Comm 11, 12 and 13 are repealed.

SECTION 2. Chapter Comm 40 is created to read:

**Chapter Comm 40
GAS SYSTEMS**

Subchapter I - Purpose and Scope

Comm 40.001 Purpose. The purpose of this chapter is to establish minimum safeguards to life, health and property by the adoption of reasonable and effective standards relating to gas systems.

Comm 40.002 Scope. ^{This applies} ~~The rules of this chapter apply~~ to the design, construction, location, installation, operation, repair and maintenance of equipment for gas systems. The provisions of this chapter are not retroactive unless specifically stated in the rule. ^{not necess.}

Note: In addition to the requirements of this chapter, employes in public sector places of employment are protected by the provisions of ch. Comm 32 - Public Employee Safety and Health. Employes in private sector places of employment are protected by the regulations of Title 29 CFR of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

Comm 40.003 Local regulations. This chapter ^{does} ~~shall~~ not limit the power of cities, villages and towns to make or enforce additional or more stringent regulations, provided the regulations do not conflict with this chapter, any other rule of the department, or law.

Subchapter II - Definitions

Comm 40.01 Definitions. In this chapter:

(1) "Approved" means acceptable to the department.

Note: The department will ordinarily accept items approved by a nationally recognized testing laboratory.

(2) "Container" means a vessel such as a tank, cylinder, bottle or drum used for storing of a gas or liquid.

(3) "Department" means the department of commerce.

(4) "Gas systems" means liquefied petroleum gas systems, liquefied natural gas systems and compressed natural gas systems.

(5) "Place of employment" has the meaning specified under s. 101.01 (11), Stats.

Note: Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are

directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

(6) "Public building" has the meaning specified under s. 101.01 (12), Stats.

Note: Under s. 101.01 (12), Stats., "public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 (1).

Subchapter III - Administration and Enforcement

Comm 40.10 Plan examination and approval. (1) DEPARTMENT APPROVAL.

Department plan approval shall be obtained before commencing construction of the gas system installations specified in ss. Comm 40.42, 40.51 and 40.61.

(2) PLANS, SPECIFICATIONS AND INFORMATION. Plans, specifications and information submitted to the department for review and approval of gas systems shall contain the following:

(a) At least 4 sets of plans, which are clear, legible and permanent copies, one copy of specifications, a completed application form, and the required fees. *all of*

(b) The name of the owner; the name of the person, firm or corporation proposing the construction or installation, if other than the owner; *where?* the address of the facility including the names of adjacent streets and highways. *under ch. Comm 4*

(c) A plot plan, drawn to a minimum scale of one inch equals 20 feet, indicating the location of the facility or installation with respect to property lines, lot lines, adjoining streets or alleys and other buildings on the same lot or property. The layout of buildings, containers, loading and unloading docks, type of construction of each building and any stream or body of water within 150 feet of the containers shall also be indicated.

(d) The location, size and capacity of each system and container.

(e) The type of container supports, clearances, type of venting and pressure relief used and combined capacity of all venting and relief valves on each container.

If the plans are
(f) ~~Plans~~ *Plans* for gas systems service stations involving the use of key, card or code dispensing units shall indicate the location of emergency controls and the location and details of the key, card or code operated dispensing devices.

(3) ADDITIONAL APPROVAL. Approval of plans is based upon compliance with the requirements of this chapter. Construction, installation and operation of gas systems may be subject to compliance with additional requirements in applicable codes, local zoning and similar ordinances.

(4) **APPLICATION FOR APPROVAL.** Application for approval of a gas system installation shall be made in writing on form SBD-6038.

Note: All forms referenced in this chapter are available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone 608/266-1818.

(5) **APPLICATION PROCESSING TIME.** The department shall review and make a determination on an application for installation approval within 15 business days of receiving all of the application materials necessary to obtain the approval.

Comm 40.11 Revisions and modifications. (1) PLAN REVISIONS (a) The changes specified in par. (b) to previously approved plans for gas systems before commencement of system operation shall be submitted for review and approval as a revision. Revised plans submitted for review shall include the department plan number for the original plans.

(b) Plans shall be submitted to the department for review and approval of changes in tank location or capacity, piping arrangement or material, safety setback clearance, point of transfer location, design of indoor fueling operation, and gas detection or monitoring equipment location.

(2) **ADDITIONS AND MODIFICATIONS.** Additions or modifications to gas systems after commencement of system operation shall be submitted for review and approval as a new installation. A modification shall include the replacement of parts or components only if they are not identical in function.

Comm 40.12 Revocation of approval. The department may revoke any approval issued under the provisions of this chapter for any false statements or misrepresentation of facts upon which the approval was based.

Comm 40.13 Departmental limitation and expiration of plan approval. Plan approval by the department or its authorized deputy shall expire one year after the date indicated on the approved plans, if construction has not commenced within that year.

Comm 40.14 Enforcement and inspections. (1) ENFORCEMENT. The rules in this chapter shall be enforced by the department and its deputies, and by all local officials or bodies having jurisdiction to approve plans or specifications or issue permits for construction, alterations or installations within the scope of this chapter or having authority to investigate and eliminate related fire hazards.

(2) **GENERAL INSPECTIONS.** (a) Gas systems which require plan examination and approval under s. Comm 40.10 shall be inspected by the department.

Note: Local jurisdictional authorities may also conduct inspections in addition to those of the department.

(b) The installer shall notify the department district inspector where the installation is located at least 5 business days prior to the start of construction to arrange for the inspection.

Note: The district inspector is indicated on the conditional approval letter.

(c) Gas systems which do not require plan examination and approval under s. Comm 40.10 may be inspected by local jurisdictional authorities to verify compliance with this chapter.

Comm 40.15 Fees. Fees shall be submitted to the department as specified in ch. Comm 2. Fees shall be submitted at the time the application for approval is submitted. No plan examinations, approvals or inspections may be made until the fees are received.

Comm 40.16 Appeals. As specified in s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may appeal to the department requesting the adoption, amendment or repeal of the rule.

Comm 40.17 Petition for variance. The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 requires the submittal of a petition for variance form and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned.

Comm 40.18 Penalties. Penalties for violations of this chapter shall be assessed in accordance with ss. 101.02 (12) and (13) and 101.16 (5), Stats.

Note: Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employe, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats. For each such violation, failure or refusal, such employe, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

Note: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employe thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Note: Section 101.16 (5), Stats., indicates that any person, firm, association or corporation who violates s. 101.16, Stats., or any standard, rule or regulation adopted by the department under that section, or issuing a false installation statement under s. 101.16 (4), Stats., will be fined not less than \$25 nor more than \$100, or imprisoned not less than 30 days nor more than 6 months.

Subchapter IV - Standards

Comm 40.30 Adoption of standards by reference. (1) CONSENT. Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in sub. (2). necess

Note: Copies of the listed standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies for personal use may be obtained, at a cost, from the organizations listed.

(2) STANDARDS. The following standards are hereby incorporated by reference into this chapter, subject to the changes and additions specified in subchs. V to VII:

(a) *Liquefied petroleum gas standards.* 1. American Petroleum Institute, 1220 L Street Northwest, Washington D.C. 20005. Design and Construction of Liquefied Petroleum Gas Installations, API Standard 2510, 7th Edition, May 1995.

2. National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. National Fuel Gas Code, NFPA No. 54-1996; Liquefied Petroleum Gas Code, NFPA No. 58-1998; Recreational Vehicles, NFPA No. 501C-1996, Chapter 2 - Fuel Systems and Equipment.

(b) *Liquefied natural gas standards.* National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. Production, Storage and Handling of Liquefied Natural Gas (LNG), NFPA No. 59A-1996.

(c) *Compressed natural gas standards.* National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. Compressed Natural Gas (CNG) Vehicular Fuel Systems, NFPA No. 52-1998.

Subchapter V – Liquefied Petroleum Gas Facilities

This subchapter applies

Comm 40.40 Scope. (1) **APPLICATION.** The rules of this subchapter apply to the storage, handling and use of liquefied petroleum gases in dwellings, public buildings and places of employment. The rules also apply to the transportation of liquefied petroleum gases by tank truck or tank trailer.

(2) **EXEMPTIONS.** The rules of this subchapter do not apply to all of the following:

(a) The transportation of liquefied petroleum gases by railroads engaged in interstate commerce or to equipment used by them.

(b) Liquefied petroleum gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Liquefied petroleum gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

Comm 40.41 Definitions. In this subchapter:

(1) “Certified inspector” means an individual who holds a valid credential issued by the department as a certified boiler-pressure vessel inspector.

(2) “Pressure vessel” means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.

(3) “Secondhand pressure vessel” means a pressure vessel that has changed location subsequent to the original installation.

Comm 40.42 Approval of proposed installations. Department plan approval shall be obtained before commencing construction on any liquefied petroleum gas installation using containers of 2000 gallons or larger water capacity or where the aggregate water capacity will be 4000 gallons or larger. Plan examination information shall be submitted as specified in s. Comm 40.10.

Comm 40.43 Certificate of installation. Every person, firm, association or corporation installing equipment using liquefied petroleum gas in containers of 125 gallons or larger water capacity

shall complete a certificate of installation form. The certificate of installation form shall be completed at the time of installation, shall be kept at the liquefied petroleum gas installation and shall be available for review by an authorized representative of the department. For installations using containers of 2000 gallons or larger water capacity, a copy of the installation form shall also be submitted to the local fire department within 10 business days of the installation.

Note: Section 101.16 (4), Stats., indicates that the installation form must be given to the customer or user and that the form state that the design, construction, location and installation of the equipment conforms with this chapter.

Comm 40.44 Design, construction, installation, operation and maintenance of liquefied petroleum gas facilities. Liquefied petroleum gas facilities shall be ~~designed, constructed, installed,~~ operated and maintained as specified in the following standards as incorporated by reference in s. Comm 40.30:

- (1) AMERICAN PETROLEUM INSTITUTE. Design and Construction of Liquefied Petroleum Gas Installations, API Standard 2510.
- (2) NATIONAL FIRE PROTECTION ASSOCIATION. (a) National Fuel Gas Code, NFPA No. 54 as referenced in NFPA No. 58.
- (b) Liquefied Petroleum Gas Code, NFPA No. 58.
- (c) Recreational Vehicles, NFPA No. 501C Chapter 2—Fuel Systems and Equipment.

Comm 40.45 Amendments to NFPA standards. This is a department rule in addition to the requirements of NFPA No. 58 section 4-2.2.1. Containers shall be filled only by the owner or upon the owner's authorization.

Note: Section 101.16 (3), Stats., indicates that no person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

Comm 40.46 Self-service to vehicle fuel tanks and recreational equipment. (1) GENERAL. No person, except one of the following, may dispense any liquefied petroleum gases unless the dispensing is through approved liquefied petroleum gas dispensing devices or devices pending approval:

- (a) A trained and authorized employe of a bulk storage plant, container charging plant or service station.
- (b) A trained and authorized motor vehicle fleet employe.

(2) LOCATION OF KEY, CARD OR CODE DISPENSING SYSTEMS. (a) Liquefied petroleum gas fueling facilities may be located in areas accessible or open to the general public provided the facility is equipped with key, card or code operated dispensing devices listed or approved by a nationally recognized testing laboratory and an attendant is on duty at all times when liquefied petroleum gas is being dispensed.

(b) Dispensing of liquefied petroleum gas may be permitted without an attendant provided the dispensing facility is not freely accessible or open to the general public and the facility is equipped with approved key, card or code operated dispensing devices.

(3) POSTING OF SIGNS. A permanent sign providing a 24 hour service call telephone number in letters at least one inch high shall be posted at the liquefied petroleum gas dispensing device in all non-attended locations.

(4) PUBLIC SELF-SERVICE PROHIBITED. Self-service of liquefied petroleum gas by the general public shall be prohibited.

Comm 40.47 Fuel supply tanks for liquefied petroleum cargo tank trucks. Every motor vehicle operated by liquefied petroleum gas fuel shall be equipped with a liquefied petroleum gas fuel supply tank separate from and in no way connected to any liquefied petroleum gas cargo tank on or attached to the motor vehicle.

Comm 40.48 Containers and pressure vessels. Design, construction, and repairs and alterations by welding to liquefied petroleum gas containers and pressure vessels shall conform to the requirements of chs. Comm 41 and 42.

Comm 40.49 Secondhand pressure vessels. The use of secondhand pressure vessels, having a water capacity in excess of 2,000 gallons and intended for liquefied petroleum gas service, shall be prohibited, unless all of the following conditions are satisfied:

(1) MANUFACTURER'S DATA REPORT. The original manufacturer's data report is available. If the original manufacturer's data report is unavailable, documentation acceptable to the department shall be submitted.

(2) ALTERATIONS AND REPAIRS BY WELDING. All alterations and repairs by welding are documented in writing to verify compliance with chs. Comm 41 and 42.

(3) INSPECTIONS. An inspection of the secondhand pressure vessel has been performed at its new location by a certified inspector.

Subchapter VI – Liquefied Natural Gas Facilities

Comm 40.50 Scope. (1) APPLICATION. The rules of this subchapter apply to the storage, handling and use of liquefied natural gas in public buildings and places of employment.

(2) EXEMPTIONS. The rules of this subchapter do not apply to all of the following:

(a) Liquefied natural gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Liquefied natural gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

(b) The transportation of liquefied natural gas.

Note: The transportation of liquefied natural gas is subject to the regulations of the federal Department of Transportation under Title 49 CFR Parts 171-179.

Comm 40.51 Approval of proposed installations. Department plan approval shall be obtained before commencing construction using containers of 2000-gallon or larger water capacity on any liquefied natural gas installation. Plan examination information shall be submitted as specified in s. Comm 40.10. *E transfer pursuant*

Comm 40.52 Certificate of installation. Every person, firm, association or corporation installing liquefied natural gas equipment shall complete a certificate of installation form. The form shall be completed at the time of installation, kept at the installation site and available for review by an authorized representative of the department. A copy of the form shall be submitted to the local fire department within 10 business days of the installation.

Comm 40.53 Design, construction, installation, operation and maintenance of liquefied natural gas facilities. Liquefied natural gas facilities shall be designed, constructed, installed, operated and maintained as specified in the National Fire Protection Association standard NFPA No. 59A as incorporated by reference in s. Comm 40.30. *pursuant to*

Subchapter VII – Compressed Natural Gas Facilities *applies*

Comm 40.60 Scope. (1) APPLICATION. The rules of this subchapter apply to the storage, handling and use of compressed natural gas in public buildings and places of employment. *This subchapter applies*

(2) EXEMPTIONS. The rules of this subchapter do not apply to all of the following: *This subchapter does not apply*

(a) Compressed natural gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Compressed natural gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

(b) The transportation of compressed natural gas.

Note: The transportation of compressed natural gas is subject to the regulations of the federal Department of Transportation under Title 49 CFR Parts 171-179.

Comm 40.61 Approval of proposed installations. Department plan approval shall be obtained before commencing construction on a compressed natural gas facility installation, except department approval is not required for vehicle fueling appliances used for outdoor fueling and having no storage capacity. Plan examination information shall be submitted as specified in s. Comm 40.10. *pursuant to*

Comm 40.62 Certificate of installation. Every person, firm, association or corporation installing compressed natural gas equipment shall complete a certificate of installation form. The form shall be completed at the time of installation, kept at the installation site and available for review by an authorized representative of the department. A copy of the form shall be submitted to the local fire department within 10 business days of the installation.

Comm 40.63 Design, construction, installation, operation and maintenance of compressed natural gas facilities. Compressed natural gas facilities shall be designed, constructed, installed,

operated and maintained as specified in the National Fire Protection Association standard NFPA No. 52 as incorporated by reference in s. Comm 40.30.

Pursuant to

SECTION 3. Comm 43.12 is amended to read:

Comm 43.12 Reporting accidents. Whenever an accident occurs at that relates to the operation of an anhydrous ammonia installation and causes personal injury requiring professional medical attention, the owner or operator shall report the facts involved to the department within 2 business days.

Note: Accidents may be reported by calling the department district inspector where the installation is located or the department's Waukesha office at 414/548-8617.

SECTION 4. Comm 43.26 (8) is amended to read:

Comm 43.26 (8) EXCESS-FLOW PROTECTION. (a) Excess-flow valves or other protective devices shall be installed to prevent discharge of the contents of containers if loading or unloading connectors or valves are cleanly broken. Piping shall be sized so as not to restrict flow rates such that the protective devices will not function. If excess-flow valves cannot be installed to provide adequate protection, remotely operated internal or external shut-off valves shall be installed.

(b) Transfer points for unloading from the storage facility shall be protected by an approved breakaway device to prevent accidental release of product. This paragraph applies to both new and existing anhydrous ammonia installations.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

July 6, 1999

JUL 07 REC'D

Senate Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 99-065

RULE NO.: Chapters Comm 11, 12, 13 and 43

RELATING TO: Gas Systems and Anhydrous Ammonia

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brenda J. Blanchard', written over a horizontal line.

Brenda J. Blanchard
Secretary



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

July 6, 1999

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-065

RULE NO.: Chapters Comm 11, 12, 13 and 43

RELATING TO: Gas Systems and Anhydrous Ammonia

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

Brenda J. Blanchard
Secretary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-065

RULE NO.: Chapters Comm 11, 12, 13 and 43

RELATING TO: Gas Systems and Anhydrous Ammonia

Final regulatory flexibility analysis not required. (Statement of determination required.)

Sections 101.02 (15)(h) to (j) and 101.16, Stats., authorize the Department to promulgate rules prescribing minimum installation and operation standards for gas systems and anhydrous ammonia facilities in public buildings and places of employment. The proposed rules of Clearinghouse Rule No. 99-065 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

(Continued on reverse side)

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-065

RULE NO.: Chapters Comm 11, 12, 13 and 43

RELATING TO: Gas Systems and Anhydrous Ammonia

Agency contact person for substantive questions.

Name: Joe Hertel

Title: Program Manager

Telephone No. 608/266-5649

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

(Continued on reverse side)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

RULE REPORT

Department of Commerce

Rule No.: Chapters Comm 11, 12, 13 and 43

Relating to: Gas Systems and Anhydrous Ammonia

Agency contact person for substantive questions:

Name Joe Hertel

Title Program Manager

Telephone Number 608/266-5649

Agency contact person for internal processing:

Name Ronald Acker

Title Code Consultant

Telephone Number 608/267-7907

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
Sections 101.02 (15)(h) to (j) and 101.16, Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
None known.
3. Citation of court decisions which are applicable to the proposed rule(s).
None known.

4. Description of the proposed rule(s).

The proposed rules consist of an update of chapters Comm 11, 12 and 13. These chapters contain minimum safety standards for the design, construction, installation, operation, inspection, repair and maintenance of liquefied petroleum gas systems, liquefied natural gas systems and compressed natural gas systems. The proposed rules consolidate those 3 chapters into a new chapter Comm 40 entitled Gas Systems. In combining the 3 chapters, the rules have been made more uniform for all 3 gas systems. The proposed rules also include 2 changes in the current rules for anhydrous ammonia systems.

5. Reason for the proposed rule(s).

The proposed rules have been developed in order to bring the state gas systems codes up to date with current technology and nationally recognized standards.

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-065		Hearing Location: Madison	
Rule Number: Chapters Comm 11, 12, 13 and 43		Hearing Date: April 27, 1999	
Relating to: Gas Systems and Anhydrous Ammonia			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-065		Hearing Location: Wausau
Rule Number: Chapters Comm 11, 12, 13 and 43		Hearing Date: May 6, 1999
Relating to: Gas Systems and Anhydrous Ammonia		
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations
		Agency Response
No comments/recommendations were presented.		

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-065		Hearing Location: Mailed in comments	
Rule Number: Chapters Comm 11, 12, 13 and 43		Hearing Date: N/A	
Relating to: Gas Systems and Anhydrous Ammonia			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	David Wantland Growmark Bloomington, IL	<p>1. The rule is supported as proposed. It is understood that this is a short term fix for the anhydrous ammonia regulation situation, and that the revised K61.1 standard is in the process of being printed. Growmark would like to be involved in the process of evaluating the new K61.1 standard and helping the Department adopt a quality regulation for Wisconsin.</p> <p>2. Comm 43.26 (8)(b) This should be worded to assure that the breakaway devices are intended for the loading of nurse tanks at anhydrous ammonia retail storage facilities.</p> <p>3. It will take some time to get all facilities upgraded with the breakaway devices. Growmark suggests January 1, 2001 as a deadline for upgrading the anhydrous ammonia retail facilities.</p>	<p>1. Comment noted. The update of the anhydrous ammonia code will begin when the revised K61.1 standard is available. Growmark will be invited to be involved in the process.</p> <p>2. Agree. See Exhibit No. 4 comment no. 2.</p> <p>3. Agree. See Exhibit No. 4 comment no. 2.</p>
2	Don Healy Self Eau Claire, WI	The changes recommended by David Wantland in comments 2 and 3 are supported. These changes clarify some wording that could be misinterpreted and also give a sufficient time line to implement this regulation.	Agree.
3	Michael Elder Regulatory Management Consultants, LLC LaCrosse, WI	Submitted same comments as Exhibit No. 2.	See Exhibit No. 2.
4	Timothy Clay Wisconsin Federation of Cooperatives Madison, WI	<p>1. The WFC supports the Department's efforts to consolidate the hydrocarbon gas system codes under one chapter. The agency's approach to standardize its plan submittal and approval requirements makes sense.</p> <p>2. The proposed language in Comm 43.26 (8)(b) may not be consistent with the intent of the Gas Systems Code Committee's break-away device recommendations. The immediate installation requirement for existing systems does not provide ample time for tank owners to comply. The following language is recommended: "For existing permanent storage facilities, fill and vapor return lines used to transfer anhydrous ammonia to nurse tanks must be protected with an approved breakaway device by no later than January 1, 2001."</p>	<p>1. Comment noted.</p> <p>2. Agree in concept. Although a delayed effective date for existing facilities was not discussed by the committee, the Department agrees that it will take some time to upgrade those facilities. The rule has been revised to clarify the intent of the breakaway device and to include a delayed effective date for existing facilities.</p>

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect
DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chs Comm 11, 12, 13 and 43

Amendment No.

Subject

Gas Systems and Anhydrous Ammonia

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None known.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$ 0	\$ -0
State Operations - Salaries and Fringes		
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

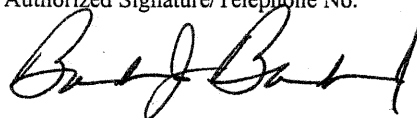
NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

3/29/99

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chs Comm 11, 12, 13 and 43
Amendment No. if Applicable

Subject
Gas Systems and Anhydrous Ammonia

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
None

Assumptions Used in Arriving at Fiscal Estimate

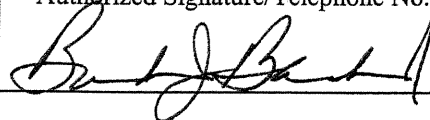
The Safety and Buildings Division is responsible for administering and enforcing the current rules for gas systems and anhydrous ammonia. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing those rules. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Local municipalities may voluntarily enforce the rules for gas systems and anhydrous ammonia, and they have the authority to offset any costs by charging appropriate fees.

Long-Range Fiscal Implications
None known.

Agency/Prepared by: (Name & Phone No.)
Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

3/29/99



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapters Comm 11, 12, 13 and 43

Relating to: Gas Systems and Anhydrous Ammonia

Clearinghouse Rule No.: 99-065

The Department of Commerce proposes an order to repeal chapters Comm 11, Comm 12 and Comm 13; to amend Comm 43.12 and Comm 43.26 (8); and to create chapter Comm 40, relating to gas systems and anhydrous ammonia.

Analysis of Proposed Rules

Statutory authority: Sections 101.02 (15)(h) to (j), and 101.16, Stats.
Statutes interpreted: Sections 101.02 (15)(h) to (j), and 101.16, Stats.

The Division of Safety and Buildings within the Department of Commerce is responsible for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Chapters Comm 11, 12, 13 and 43 contain minimum safety standards for the design, construction, installation, operation, inspection, repair and maintenance of liquefied petroleum gas systems, liquefied natural gas systems, compressed natural gas systems and anhydrous ammonia systems.

The proposed rules consist of an update of chapters Comm 11, 12 and 13, and consolidating those 3 chapters into a new chapter Comm 40 entitled Gas Systems. In combining the 3 chapters, the rules have been made more uniform for all 3 gas systems. The proposed rules also contain 2 changes in the current rules for anhydrous ammonia systems. The following listing is a summary of the major changes in the proposed rules.

1. Deleting the requirements to submit a copy of the agreement and training program when plans are submitted for service stations involving the use of key, card or code dispensing units. [Comm 40.10 (2) (f)]
2. Adding a new requirement to liquefied petroleum gas systems and liquefied natural gas systems for submittal of plans when system revisions or modifications are made. [Comm 40.11]
3. Clarifying the rules for inspection of the gas system installations. [Comm 40.14 (2)]
4. Updating the national standards that are adopted by reference. [Comm 40.30]
5. Exempting liquefied petroleum gas facilities that are covered under chapter PSC 135. [Comm 40.40 (2) (b)]
6. Requiring department approval for liquefied petroleum gas installations where the aggregate water capacity of the installation will be 4000 gallons or larger, regardless of individual container sizes. [Comm 40.42]
7. Deleting the amendment to the NFPA 58 standard that allowed reduced setbacks for liquefied petroleum gas containers. [Comm 40.45]
8. Adding a new requirement to liquefied natural gas systems for completion of a certificate of installation form and submittal of a copy of the form to the local fire department. [Comm 40.52]

9. Requiring a breakaway device to be installed on all new and existing anhydrous ammonia installations. [Comm 43.26 (8)]

The proposed rules have been developed with the assistance of the Gas Systems Code Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Ed Aldridge	Growmark, Inc.
Bruce Barganz	Wisconsin Fertilizer & Chemical Association
Tim Clay	Wisconsin Federation of Cooperatives
David A. Duey	ANGI International
Kingsley H. Forbes	National Propane Gas Association
Donald Healy	Wisconsin Agri-Service Association
Art Herschberger	Wisconsin Propane Gas Association
Bruce Kleespie	Kleespie Tank & Petroleum Equipment
Gary Puljas	Wisconsin Fire Inspectors Association
Gene Reece	Wisconsin State Fire Chiefs Association
John Wehmeier	Wisconsin Utilities Association

SECTION 1. Chapters Comm 11, 12 and 13 are repealed.

SECTION 2. Chapter Comm 40 is created to read:

**Chapter Comm 40
GAS SYSTEMS**

Subchapter I - Purpose and Scope

Comm 40.001 Purpose. The purpose of this chapter is to establish minimum safeguards to life, health and property by the adoption of reasonable and effective standards relating to gas systems.

Comm 40.002 Scope. This chapter applies to the design, construction, location, installation, operation, repair and maintenance of equipment for gas systems. The provisions of this chapter are not retroactive unless specifically stated in the rule.

Note: In addition to the requirements of this chapter, employes in public sector places of employment are protected by the provisions of ch. Comm 32 - Public Employee Safety and Health. Employes in private sector places of employment are protected by the regulations of Title 29 CFR of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

Comm 40.003 Local regulations. This chapter does not limit the power of cities, villages and towns to make or enforce additional or more stringent regulations, provided the regulations do not conflict with this chapter, any other rule of the department, or law.

Subchapter II - Definitions

Comm 40.01 Definitions. In this chapter:

(1) "Approved" means acceptable to the department.

Note: The department will ordinarily accept items approved by a nationally recognized testing laboratory.

(2) "Container" means a vessel such as a tank, cylinder, bottle or drum used for storing of a gas or liquid.

(3) "Department" means the department of commerce.

(4) "Gas systems" means liquefied petroleum gas systems, liquefied natural gas systems and compressed natural gas systems.

(5) "Place of employment" has the meaning specified under s. 101.01 (11), Stats.

Note: Under s. 101.01 (11), Stats., "place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. "Farming" includes those activities specified in s. 102.04 (3), and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employes for use thereon, if such activities are

directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

(6) "Public building" has the meaning specified under s. 101.01 (12), Stats.

Note: Under s. 101.01 (12), Stats., "public building" means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 (1).

Subchapter III - Administration and Enforcement

Comm 40.10 Plan examination and approval. (1) DEPARTMENT APPROVAL.

Department plan approval shall be obtained before commencing construction of the gas system installations specified in ss. Comm 40.42, 40.51 and 40.61.

(2) **PLANS, SPECIFICATIONS AND INFORMATION.** Plans, specifications and information submitted to the department for review and approval of gas systems shall contain all of the following:

(a) At least 4 sets of plans, which are clear, legible and permanent copies; one copy of specifications; a completed application form; and the required fees.

(b) The name of the owner; the name of the person, firm or corporation proposing the construction or installation, if other than the owner; and the address of the facility, including the names of adjacent streets and highways.

(c) A plot plan, drawn to a minimum scale of one inch equals 20 feet, indicating the location of the facility or installation with respect to property lines, lot lines, adjoining streets or alleys and other buildings on the same lot or property. The layout of buildings, containers, loading and unloading docks, type of construction of each building and any stream or body of water within 150 feet of the containers shall also be indicated.

(d) The location, size and capacity of each system and container.

(e) The type of container supports, clearances, type of venting and pressure relief used and combined capacity of all venting and relief valves on each container.

(f) If the plans are for gas systems service stations involving the use of key, card or code dispensing units, the location of emergency controls and the location and details of the key, card or code operated dispensing devices.

(3) **ADDITIONAL APPROVAL.** Approval of plans is based upon compliance with the requirements of this chapter. Construction, installation and operation of gas systems may be subject to compliance with additional requirements in applicable codes, local zoning and similar ordinances.

(4) APPLICATION FOR APPROVAL. Application for approval of a gas system installation shall be made in writing on form SBD-6038.

Note: All forms referenced in this chapter are available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone 608/266-1818.

(5) APPLICATION PROCESSING TIME. The department shall review and make a determination on an application for installation approval within 15 business days of receiving all of the application materials necessary to obtain the approval.

Comm 40.11 Revisions and modifications. (1) PLAN REVISIONS (a) The changes specified in par. (b) to previously approved plans for gas systems before commencement of system operation shall be submitted for review and approval as a revision. Revised plans submitted for review shall include the department plan number for the original plans.

(b) Plans shall be submitted to the department for review and approval of changes in tank location or capacity, piping arrangement or material, safety setback clearance, point of transfer location, design of indoor fueling operation, and gas detection or monitoring equipment location.

(2) ADDITIONS AND MODIFICATIONS. Additions or modifications to gas systems after commencement of system operation shall be submitted for review and approval as a new installation. A modification shall include the replacement of parts or components only if they are not identical in function.

Comm 40.12 Revocation of approval. The department may revoke any approval issued under the provisions of this chapter for any false statements or misrepresentation of facts upon which the approval was based.

Comm 40.13 Departmental limitation and expiration of plan approval. Plan approval by the department or its authorized deputy shall expire one year after the date indicated on the approved plans, if construction has not commenced within that year.

Comm 40.14 Enforcement and inspections. (1) ENFORCEMENT. This chapter shall be enforced by the department and its deputies, and by all local officials or bodies having jurisdiction to approve plans or specifications or issue permits for construction, alterations or installations within the scope of this chapter or having authority to investigate and eliminate related fire hazards.

(2) GENERAL INSPECTIONS. (a) Gas systems which require plan examination and approval under s. Comm 40.10 shall be inspected by the department.

Note: Local jurisdictional authorities may also conduct inspections in addition to those of the department.

(b) The installer shall notify the department district inspector where the installation is located at least 5 business days prior to the start of construction to arrange for the inspection.

Note: The district inspector is indicated on the conditional approval letter.

(c) Gas systems which do not require plan examination and approval under s. Comm 40.10 may be inspected by local authorities to verify compliance with this chapter.

Comm 40.15 Fees. Fees shall be submitted to the department as specified in ch. Comm 2. Fees shall be submitted at the time the application for approval is submitted. No plan examinations, approvals or inspections may be made until the fees are received.

Comm 40.16 Appeals. As specified in s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may appeal to the department requesting the adoption, amendment or repeal of the rule.

Comm 40.17 Petition for variance. The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

Comm 40.18 Penalties. Penalties for violations of this chapter shall be assessed in accordance with ss. 101.02 (12) and (13) and 101.16 (5), Stats.

Note: Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employe, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats. For each such violation, failure or refusal, such employe, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

Note: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employe thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Note: Section 101.16 (5), Stats., indicates that any person, firm, association or corporation who violates s. 101.16, Stats., or any standard, rule or regulation adopted by the department under that section, or issuing a false installation statement under s. 101.16 (4), Stats., will be fined not less than \$25 nor more than \$100, or imprisoned not less than 30 days nor more than 6 months.

Subchapter IV - Standards

Comm 40.30 Adoption of standards by reference. (1) CONSENT. Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in sub. (2).

Note: Copies of the listed standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies for personal use may be obtained, at a cost, from the organizations listed.

(2) STANDARDS. The following standards are incorporated by reference into this chapter, subject to the changes and additions specified in subchs. V to VII:

(a) Liquefied petroleum gas standards. 1. American Petroleum Institute, 1220 L Street Northwest, Washington D.C. 20005. Design and Construction of Liquefied Petroleum Gas Installations, API Standard 2510, 7th Edition, May 1995.

2. National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. National Fuel Gas Code, NFPA No. 54-1996; Liquefied Petroleum Gas Code, NFPA No. 58-1998; Recreational Vehicles, NFPA No. 1192-1999, Chapter 2 - Fuel Systems and Equipment.

(b) *Liquefied natural gas standards.* National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. Production, Storage and Handling of Liquefied Natural Gas (LNG), NFPA No. 59A-1996.

(c) *Compressed natural gas standards.* National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908. Compressed Natural Gas (CNG) Vehicular Fuel Systems, NFPA No. 52-1998.

Subchapter V – Liquefied Petroleum Gas Facilities

Comm 40.40 Scope. (1) APPLICATION. This subchapter applies to the storage, handling and use of liquefied petroleum gases in dwellings, public buildings and places of employment and to the transportation of liquefied petroleum gases by tank truck or tank trailer.

(2) EXEMPTIONS. This subchapter does not apply to any of the following:

(a) The transportation of liquefied petroleum gases by railroads engaged in interstate commerce or to equipment used by them.

(b) Liquefied petroleum gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Liquefied petroleum gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

Comm 40.41 Definitions. In this subchapter:

(1) “Certified inspector” means an individual who holds a valid credential issued by the department as a certified boiler-pressure vessel inspector.

(2) “Pressure vessel” means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.

(3) “Secondhand pressure vessel” means a pressure vessel that has changed location subsequent to the original installation.

Comm 40.42 Approval of proposed installations. Department plan approval shall be obtained before commencing construction on any liquefied petroleum gas installation using containers of 2000 gallons or larger water capacity or where the aggregate water capacity will be 4000 gallons or larger. Plan examination information shall be submitted as specified in s. Comm 40.10.

Comm 40.43 Certificate of installation. Every person, firm, association or corporation installing equipment using liquefied petroleum gas in containers of 125 gallons or larger water capacity

shall complete a certificate of installation form. The certificate of installation form shall be completed at the time of installation, shall be kept at the liquefied petroleum gas installation and shall be available for review by an authorized representative of the department. For installations using containers of 2000 gallons or larger water capacity, a copy of the installation form shall also be submitted to the local fire department within 10 business days of the installation.

Note: Section 101.16 (4), Stats., indicates that the installation form must be given to the customer or user and that the form state that the design, construction, location and installation of the equipment conforms with this chapter.

Comm 40.44 Design, construction, installation, operation and maintenance of liquefied petroleum gas facilities. Liquefied petroleum gas facilities shall be designed, constructed, installed, operated and maintained as specified in the following standards as incorporated by reference in s. Comm 40.30:

(1) AMERICAN PETROLEUM INSTITUTE. Design and Construction of Liquefied Petroleum Gas Installations, API Standard 2510.

(2) NATIONAL FIRE PROTECTION ASSOCIATION. (a) National Fuel Gas Code, NFPA No. 54 as referenced in NFPA No. 58.

(b) Liquefied Petroleum Gas Code, NFPA No. 58.

(c) Recreational Vehicles, NFPA No. 1192 Chapter 2—Fuel Systems and Equipment.

Comm 40.45 Amendments to NFPA standards. This is a department rule in addition to the requirements of NFPA No. 58 section 4-2.2.1: Containers shall be filled only by the owner or upon the owner's authorization.

Note: Section 101.16 (3), Stats., indicates that no person, firm or corporation, except the owner thereof and those duly authorized by the owner so to do, shall fill, refill or use in any manner a liquefied petroleum gas container or receptacle for any purpose whatsoever.

Comm 40.46 Self-service to vehicle fuel tanks and recreational equipment. (1) GENERAL. No person may dispense any liquefied petroleum gases unless the dispensing is through approved liquefied petroleum gas dispensing devices or devices pending approval, except one of the following:

(a) A trained and authorized employe of a bulk storage plant, container charging plant or service station.

(b) A trained and authorized motor vehicle fleet employe.

(2) LOCATION OF KEY, CARD OR CODE DISPENSING SYSTEMS. (a) Liquefied petroleum gas fueling facilities may be located in areas accessible or open to the general public if the facility is equipped with key, card or code operated dispensing devices listed or approved by a nationally recognized testing laboratory and an attendant is on duty at all times when liquefied petroleum gas is being dispensed.

(b) Dispensing of liquefied petroleum gas may be permitted without an attendant if the dispensing facility is not freely accessible or open to the general public and the facility is equipped with approved key, card or code operated dispensing devices.

(3) **POSTING OF SIGNS.** A permanent sign providing a 24 hour service call telephone number in letters at least one inch high shall be posted at the liquefied petroleum gas dispensing device in all non-attended locations.

(4) **PUBLIC SELF-SERVICE PROHIBITED.** Self-service of liquefied petroleum gas by the general public is prohibited.

Comm 40.47 Fuel supply tanks for liquefied petroleum cargo tank trucks. Every motor vehicle operated by liquefied petroleum gas fuel shall be equipped with a liquefied petroleum gas fuel supply tank separate from and in no way connected to any liquefied petroleum gas cargo tank on or attached to the motor vehicle.

Comm 40.48 Containers and pressure vessels. Design and construction of, and repairs and alterations by welding to, liquefied petroleum gas containers and pressure vessels shall conform to the requirements of ch. Comm 41.

Comm 40.49 Secondhand pressure vessels. The use of secondhand pressure vessels, having a water capacity in excess of 2,000 gallons and intended for liquefied petroleum gas service, is prohibited, unless all of the following conditions are satisfied:

(1) **MANUFACTURER'S DATA REPORT.** The original manufacturer's data report is available. If the original manufacturer's data report is unavailable, documentation acceptable to the department shall be submitted.

(2) **ALTERATIONS AND REPAIRS BY WELDING.** All alterations and repairs by welding are documented in writing to verify compliance with ch. Comm 41.

(3) **INSPECTIONS.** An inspection of the secondhand pressure vessel has been performed at its new location by a certified inspector.

Subchapter VI – Liquefied Natural Gas Facilities

Comm 40.50 Scope. (1) APPLICATION. This subchapter applies to the storage, handling and use of liquefied natural gas in public buildings and places of employment.

(2) **EXEMPTIONS.** This subchapter does not apply to any of the following:

(a) Liquefied natural gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Liquefied natural gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

(b) The transportation of liquefied natural gas.

Note: The transportation of liquefied natural gas is subject to the regulations of the federal Department of Transportation under Title 49 CFR Parts 171-179.

Comm 40.51 Approval of proposed installations. Department plan approval shall be obtained before commencing construction using containers of 2000-gallon or larger water capacity on any liquefied natural gas installation. Plan examination information shall be submitted as specified in s. Comm 40.10.

Comm 40.52 Certificate of installation. Every person, firm, association or corporation installing liquefied natural gas equipment shall complete a certificate of installation form. The form shall be completed at the time of installation, kept at the installation site and available for review by an authorized representative of the department. A copy of the form shall be submitted to the local fire department within 10 business days of the installation.

Comm 40.53 Design, construction, installation, operation and maintenance of liquefied natural gas facilities. Liquefied natural gas facilities shall be designed, constructed, installed, operated and maintained as specified in the National Fire Protection Association standard NFPA No. 59A as incorporated by reference in s. Comm 40.30.

Subchapter VII – Compressed Natural Gas Facilities

Comm 40.60 Scope. (1) APPLICATION. This subchapter applies to the storage, handling and use of compressed natural gas in public buildings and places of employment.

(2) EXEMPTIONS. This subchapter does not apply to any of the following:

(a) Compressed natural gas facilities owned and operated by utilities when the facilities are part of the distribution system for the utility and are subject to the provisions of ch. PSC 135.

Note: Compressed natural gas facilities owned and operated for utility purposes by utilities are regulated by the Public Service Commission and are subject to ch. PSC 135, and the Natural Gas Pipeline Safety Act of 1968 (49 USC 1675, 49 CFR 192 - et. seq.).

(b) The transportation of compressed natural gas.

Note: The transportation of compressed natural gas is subject to the regulations of the federal Department of Transportation under Title 49 CFR Parts 171-179.

Comm 40.61 Approval of proposed installations. Department plan approval shall be obtained before commencing construction on a compressed natural gas facility installation, except department approval is not required for vehicle fueling appliances used for outdoor fueling and having no storage capacity. Plan examination information shall be submitted as specified in s. Comm 40.10.

Comm 40.62 Certificate of installation. Every person, firm, association or corporation installing compressed natural gas equipment shall complete a certificate of installation form. The form shall be completed at the time of installation, kept at the installation site and available for review by an authorized representative of the department. A copy of the form shall be submitted to the local fire department within 10 business days of the installation.

Comm 40.63 Design, construction, installation, operation and maintenance of compressed natural gas facilities. Compressed natural gas facilities shall be designed, constructed, installed, operated and maintained as specified in the National Fire Protection Association standard NFPA No. 52 as incorporated by reference in s. Comm 40.30.

SECTION 3. Comm 43.12 is amended to read:

Comm 43.12 Reporting accidents. Whenever an accident occurs ~~at~~ that relates to the operation of an anhydrous ammonia installation and causes personal injury requiring professional medical attention, the owner or operator shall report the facts involved to the department within 2 business days.

Note: Accidents may be reported by calling the department district inspector where the installation is located or the department's Waukesha office at 414/548-8617.

SECTION 4. Comm 43.26 (8) is amended to read:

Comm 43.26 (8) EXCESS-FLOW PROTECTION. (a) Excess-flow valves or other protective devices shall be installed to prevent discharge of the contents of containers if loading or unloading connectors or valves are cleanly broken. Piping shall be sized so as not to restrict flow rates such that the protective devices will not function. If excess-flow valves cannot be installed to provide adequate protection, remotely operated internal or external shut-off valves shall be installed.

(b) Fill and vapor return lines used to transfer anhydrous ammonia to nurse tanks at permanent storage facilities shall be protected with an approved breakaway device to prevent accidental release of product. For facilities existing on the effective date of this paragraph [Revisor to insert date], the breakaway device shall be installed by January 1, 2001.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
