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Chapter Comm 48

PETROLEUM PRODUCTS

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Note: Chapter Ind 10 was renumbered to be chapter ILHR 48, Register, May, 1984, eff. June 1, 1984. Chapter ILHR 48 was renumbered to be chapter Comm 48 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, October, 1996, No. 490.

Subchapter I — Administration and Enforcement

Comm 48.100 Scope, application, and authority. **(1)** RULE−MAKING AUTHORITY. The department has been granted the power and authority for the promulgation of rules relating to petroleum product grade specifications and the administration and enforcement of the rules.

(2) AUTHORITY TO ENTER. The department has been granted the authority to enter any premises of any manufacturer, vendor, dealer or user of products of petroleum during the regular business hours to determine whether the petroleum product has been inspected in accordance with the rules of this code.

(3) AUTHORITY TO SAMPLE AND TEST. The department has been granted the authority to obtain samples of products of petroleum, at any point within or without this state, for the purpose of testing these products in accordance with the rules of this code.

(4) AUTHORITY FOR ACCESS TO RECORDS. The department has the authority to inspect the records of every person having custody of books or records showing the shipment, receipt, and inventory of products of petroleum for the purpose of determining the amount of petroleum products shipped or received.

(5) AUTHORITY TO PERFORM INVESTIGATIONS. Any accident or explosion involving products of petroleum which come to the knowledge of the department may be investigated by the department to determine whether or not there has been a violation of this chapter.

(6) AUTHORITY TO PROVIDE ASSISTANCE TO LOCAL AUTHORITIES. The department has been granted the authority, upon request of state agencies or local authorities, to assist in the investigation of hazardous situations involving suspected or known products of petroleum.

(7) AUTHORITY TO STOP SALE. Persons with enforcement authority under this chapter shall have the authority to shut down petroleum storage tank systems by the issuance of orders, the disabling with locks, or applying a red−tag, under the following conditions:

(a) *Immediate shutdown to protect life, safety or health.* Petroleum storage systems which contain products which pose an immediate danger to life, safety or health shall be subject to immediate shutdown. Products that cause immediate danger to life, safety, or health include but are not limited to: heating oil or kerosene contaminated with gasoline, or contaminated aircraft fuels.

(b) *Immediate shutdown to blend or remove petroleum products or wastes.* Petroleum storage systems which contain wastes or products that fail to meet the operational and technical standards of this chapter shall be shut down until a pump out or blend is completed under the supervision of a person with enforcement authority under this chapter. The system may be reopened as soon as the product contained in the tank is verified by a person with enforcement authority under this chapter as meeting this chapter's operational and technical standards.

(c) *Immediate shutdown after a prohibited act.* Petroleum storage systems are subject to immediate shutdown after any corresponding violation of s. Comm 48.590 (1) or (2) occurs.

(d) *Shutdown after long term violation.* Petroleum storage systems containing petroleum products for which there is a continuing code violation under this chapter are subject to shutdown if all of the following conditions are met:

1. An order is issued with a specific compliance date and a period for compliance;

2. The first reinspection made after the specified compliance date shows that compliance has not been achieved;

3. A second compliance date is set with a period for compliance;

4. Reinspection after the second compliance date shows that compliance is still not achieved; and

5. The owner has not filed a written appeal with the department within 15 calendar days of receiving the order.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; emerg. cr. (7), eff. 9−13−95; cr. (7), Register, May, 1996, No. 485, eff. 6−1−96; **CR 05−081: renum. Comm. 48.01 to be Comm. 48.100 and (7) (c) to be (7) (d) and am., am. (4), (5) and (7), cr. (7) (c) Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.200 Petition for variance, penalties and fees. **(1)** PENALTIES. Pursuant to s. 168.15, Stats., every person who violates any provision of this chapter shall forfeit not less than $10 nor more than $100 for each violation. Each day a person fails to comply with any provision of this chapter is a separate violation.

(2) FEES. The department is authorized to collect fees for the inspection of any petroleum product. The fees for inspection shall be in accordance with ch. Comm 2, Fee Schedule.

(3) REIMBURSEMENT OR CREDIT. If a petroleum product is shipped outside of the state after inspection, the persons making the shipment shall be given credit or be reimbursed by the department for such fees, providing the following conditions are met:

(a) Notice of such shipment out of state is properly acknowledged and sworn to before a notary public.

(b) The notice is given to the department not later than the 20th day of the following month.

(4) NO INSPECTION FEE. No inspection fee shall be charged on a petroleum product that is shipped by a person from storage at a refinery, marine terminal, pipeline terminal, pipeline tank farm or place of manufacture in this state to a person for storage at another refinery, marine terminal, pipeline terminal, pipeline tank farm or place of manufacture in this state.

(5) 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, where applicable, a position statement from the fire department having jurisdiction.

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Note: Chapter Comm 3 requires the submittal of a petition for variance form (ERS−9890A) 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. A position statement from the fire department is applicable when the rule being petitioned relates to fire safety issues.

Note: Form ERS−9890A is available from the Division of Environmental and Regulatory Services, at P.O. Box 7839, Madison, WI 53707−7839, or at telephone 608/266−7874 and 608/264−8777 (TTY), or at the Division's Web sites for petroleum and tanks at commerce.wi.gov.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; am. Register, October, 1984, No. 346, eff. 11−1−84; renum. (5) to be (5) (a) and cr. (5) (b), Register, April, 1985, No. 352, eff. 5−1−85; r. and recr. (1), Register, February, 1986, No. 362, eff. 3−1−86; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1995, No. 479; CR 03−011: r. and recr. (5) Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.02 to be Comm 48.200 Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.300 Definitions. In this chapter:

(1) "Alternative liquid automotive fuel" includes, but is not limited to:

(a) Methanol, denatured ethanol, and other alcohol;

(b) Mixtures containing 85% or more by volume, or such other percentage, but not less than 70%, as determined by the secretary of the United States department of energy by rule, of methanol, denatured ethanol, and/or other alcohols with gasoline or other fuels;

(c) Biofuels; and

(d) Coal−derived liquid fuels.

(2) "Automotive fuel rating" means:

(a) For gasoline, the octane rating; or

(b) For an alternative liquid automotive fuel, the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel.

(3) "Biodiesel fuel" means a fuel that is comprised of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats.

(4) "Biofuels" means any fuel that is derived from biomass.

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

(6) "Inspection" means collection of product samples, qualitative determination by visual assessment and laboratory testing, and verification of associated product−shipping and storage records.

(7) "Inspector" means a duly authorized petroleum products inspector of the department.

(8) "Motor fuel" means a flammable or combustible liquid which is used in the operation of an internal combustion or turbine engine and which is regulated by either the product specifications in subch. II or the labeling requirements in s. Comm 48.580.

(9) "Petroleum products," "products of petroleum" and "products" means gasoline, gasoline/alcohol−ether blends, aviation gasoline, automotive gasoline, kerosene, fuel oil, burner fuel and diesel fuel.

(10) "Reclaimed used lubricating oil", "recleaned used lubricating oil" or "reconditioned used lubricating oil" means used oil which has been cleaned by cleaning methods used for the primary purpose of removing insoluble contaminants to make the oil suitable for further use. In this subsection, "cleaning method" includes settling, heating, dehydration, filtration or centrifuging.

(11) "Red−tag" means a red tag secured to a component of a storage or dispensing system, which gives notice that the system or the product stored is under enforcement action for failure to comply with the requirements of either this chapter or ch. Comm 10, and which prohibits operation of the system until the tag is removed by an inspector.

(12) "Rerefined used lubricating oil" means used oil on which refining processes have been used to produce high−quality base stock for lubricants. In this subsection, "refining process" includes distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay or other chemicals or a combination of those processes.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; cr. (6) and (7), Register, February, 1986, No. 362, eff. 3−1−86; CR 03−011: r. and recr. Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.03 to be Comm 48.300, (1) (d) and (e) to be (1) (c) and (d) and (2) to (7) to be (2), (5), (7), (9), (10) and (12), am. (1) (a) and (c), r. (1) (c), c. (3), (4), (6), (8) and (11) Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.400 Adoption of standards by reference. **(1)** The following standards of ASTM International are incorporated by reference into this chapter:

(a) ASTM D 396–05, Standard Specification for Fuel Oils.

(b) ASTM D 910–04a, Standard Specification for Aviation Gasolines.

(c) ASTM D 975–05, Standard Specification for Diesel Fuel Oils.

(d) ASTM D 1655–05, Standard Specification for Aviation Turbine Fuels.

(e) ASTM D 3699–05, Standard Specification for Kerosine.

(f) ASTM D 4806–04a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark−Ignition Engine Fuel.

(g) ASTM D 4814–04b$^{\Sigma 1}$, Standard Specification for Automotive Spark−Ignition Engine Fuel.

(h) ASTM D 5798–99(2004), Standard Specification for Fuel Ethanol (Ed75−Ed85) for Automotive Spark−Ignition Engines.

(i) ASTM D 6227–04a, Standard Specification for Grade 82 Unleaded Aviation Gasoline.

(j) ASTM D 6751–03a, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

(2) Where no ASTM standard exists, other generally recognized national consensus standards may be used.

Note: Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies of the standards may be purchased from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshokocken, PA 19428–2959, telephone (610) 832–9585, e−mail service@astm.org, or Web site www.astm.org.

Note: Pursuant to s. 168.07 (2), Stats., inspections to determine compliance with specifications prescribed by the department must be conducted in accordance with the latest ASTM methods.

History: CR 03−011: cr. Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: r. and recr. Register August 2006 No. 608, eff. 9−1−06.**

Subchapter II — Petroleum Product Specifications

Comm 48.500 Gasoline specifications. **(1)** GASOLINE, AUTOMOTIVE GASOLINE, ALCOHOL, AND GASOLINE/ALCOHOL−ETHER BLENDS. (a) *General.* Gasoline, automotive gasoline, and gasoline/alcohol−ether blends sold or offered for sale in this state shall be visually free of undissolved water, sediment and suspended matter and shall be clear and bright at the ambient temperature or 70° F (21° C), whichever is higher.

(b) *Gasoline.* Any petroleum product designated by name or reference as gasoline shall meet the requirements of Table 48.500.

TABLE 48.500
MINIMUM REQUIREMENTS FOR GASOLINE

Test	Requirement	ASTM Test Method[a/]
Distillation temp., deg F (deg C):		D86
Initial boiling point (max.)	131° F (55° C)	
Not less than 10% evaporation	167° F (75° C)	
Not less than 50% evaporation	284° F (140° C)	

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TABLE 48.500 (continued)

Test	Requirement	ASTM Test Method[a/]
Not less than 90% evaporation	392° F (200° C)	
End point (max.)	437° F (225° C)	
Natural residue (max.)	2%	

a/ Pursuant to s. 168.07, Stats., the latest revision of the Annual Book of ASTM Standards shall be used.

(c) *Automotive gasoline.* 1. Except as provided in subd. 2., any petroleum product designated by name or reference as automotive gasoline shall meet the requirements of ASTM D 4814.

2. Substitute a maximum sulfur level of 0.10, mass %, for the maximum sulfur level of 0.0350, mass %, in Table 2 of ASTM D 4814.

Note: The maximum sulfur level of 0.0350, mass %, in Table 2 of ASTM D 4814, relates to federal air−quality requirements, and may be enforced by federal authorities.

(d) *Gasoline/oxygenate blends.* 1. Anhydrous denatured alcohol may be added to gasoline if the original gasoline product meets the requirements of par. (b).

2. The alcohol content for ethyl alcohol may not exceed a concentration of 10 volume percent.

3. The alcohol content for methyl alcohol may not exceed a concentration of one volume percent.

4. Other oxygenated fuels shall be acceptable if the oxygenates are blended at the refinery in amounts allowed by the EPA and the final product conforms to the standard specification for gasoline under par. (b).

(e) *Ethanol.* 1. Any product designated by name or reference as denatured fuel ethanol for blending with gasoline for use as automotive spark−ignition engine fuel shall meet the requirements of ASTM D 4806.

2. Any product designated by name or reference as fuel ethanol for automotive spark−ignition engines shall meet the requirements of ASTM D 5798.

(f) *Documentation.* Any person who distributes gasoline products which contain one percent or more by volume of ethyl alcohol or methyl alcohol, or both, shall state on any invoice, bill of lading, shipping paper or other documentation accompanying the shipment used in normal and customary business practices, the type and percentage of alcohol rounded to a whole number or half number equal to or less than the determined percentage.

(g) *MTBE content.* 1. Except as provided in subd. 2., gasoline, automotive gasoline, gasoline−alcohol fuel blends, and reformulated gasoline, as defined in s. 285.37 (1), Stats., beginning on August 1, 2004, may not contain more than 0.5%, by volume, of methyl tertiary−butyl ether.

2. Racing fuel used at racing events or in preparation for racing events may contain any amount of methyl tertiary−butyl ether.

(2) AVIATION FUELS. (a) *Aviation gasoline.* Any petroleum product designated by name or reference as aviation gasoline shall meet the requirements of ASTM D 910 or D 6227.

(b) *Aviation turbine fuel.* Any petroleum product designated by name or reference as aviation turbine fuel shall meet the requirements of ASTM D 1655.

History: R. and recreate from Ind 10.03, Register, July, 1980, No. 295, eff. 8−1−80; Table 10.04−B1 reprinted to correct error, Register, September, 1980, No. 297; r. and recr. (1) (c) and Table 48.04−B1, cr. (1) (d), Register, February, 1986, No. 362, eff. 3−1−86; CR 03−011: am. (1) (b) and (2), r. Tables 48.04−B1, B2, and C, cr. (1) (e), Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.04 to be Comm 48.500, (1) (intro.), (a), (b), and (c) to be (1) (a), (b), (c) and (d), Table 48.04−A to be Table 48.500, (1) (d) and (e) to be (1) (f) and (g), am. (1) (title), (b) and (c) and (2), cr. (1) (a) and (e) Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.510 Kerosene specifications. Any petroleum product designated by name or reference as "kerosene" shall meet the requirements specified in ASTM D 3699.

History: R. and recr. from Ind 10.03, Register, July, 1980, No. 295, eff. 8−1−80; am. table, Register, May, 1984, No. 341, eff. 6−1−84; r. and recr. table, Register, February, 1986, No. 362, eff. 3−1−86; CR 03−011: am., r. Table 48.05 Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.05 to be Comm 48.510 Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.520 Fuel oil specifications. Any petroleum product designated by name or reference as No. 1 fuel oil to No. 6 fuel oil shall meet the requirements specified in ASTM D 396.

History: R. and recr. from Ind 10.01 and 10.02, Register, July, 1980, No. 295, eff. 8−1−80; am. table, Register, May, 1984, No. 341, eff. 6−1−84; r. and recr. table, Register, February, 1986, No. 362, eff. 3−1−86; CR 03−011: am., r. Table 48.06 Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.06 to be Comm 48.520 Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.530 Diesel fuel oil specifications. (1) Except as provided in subs. (2) and (5), any petroleum product designated by name or reference as No. 1 diesel fuel oil to No. 4 diesel fuel oil shall meet the requirements specified in ASTM D 975.

(2) The flash point specification temperature for No. 2 diesel fuel oil shall be 100° Fahrenheit.

(3) Biodiesel fuel meeting the requirements specified in ASTM D 6751 may be added to diesel fuel meeting the requirements specified in ASTM D 975.

Note: Assuring compliance with ASTM D 6751 is one of the goals of a BQ−9000 program administered by the National Biodiesel Accreditation Commission. This program includes the Commission's accreditation of producers, and certification of marketers – following a successful formal review and audit of the capacity and commitment of an applicant to produce or market biodiesel fuel that complies with ASTM D 6751. The department will accept this accreditation and certification as adequate assurance of meeting the requirements specified in ASTM D 6751.

(4) Any person who distributes petroleum−source diesel fuel mixed with non−petroleum−source diesel fuel shall state on any invoice, bill of lading, shipping paper or other documentation accompanying the shipment used in normal and customary business practices, the type and percentage of each component rounded to a whole number or half number equal to or less than the determined percentage.

(5) Substitute a maximum sulfur level of 0.05, mass %, for the maximum sulfur level of 15 ppm in Table 1 of ASTM D 975.

Note: The maximum sulfur level of 15 ppm, for No. 1 and No. 2 diesel fuels in Table 1 of ASTM D 975, relates to federal air−quality requirements, and may be enforced by federal authorities.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; r. and recr. table, Register, February, 1986, No. 362, eff. 3−1−86; CR 03−011: am., r. Table 48.06, cr. (2) to (4) Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.07 to be Comm 48.530, am. (1) and (3), cr. (5) Register August 2006 No. 608, eff. 9−1−06.**

Subchapter III — Inspection Procedures

Comm 48.580 Labeling of dispensers and containers. (1) DISPENSING EQUIPMENT. (a) *General.* All devices dispensing petroleum products at filling stations, garages or other places where petroleum products are sold or offered for sale shall be marked with a conspicuous label visible on both faces of the dispensing device indicating the automotive fuel rating of the petroleum product. No label may be placed so that the text is sideways or upside down.

Note: The Federal Trade Commission (FTC) establishes the requirements for accurate automotive fuel ratings, which include octane ratings, certification and posting under Title 16 CFR Part 306. The FTC requirements are available on the Internet at www.ftc.gov, or at the U.S. Government Bookstore, 310 West Wisconsin Avenue, Suite 150W, Milwaukee, WI 53203−2228, telephone 414/297−1304.

(b) *Oxygenated gasoline dispensing device labels.* 1. A device that dispenses a gasoline−ethanol fuel blend of more than 2% by volume of ethanol shall be labeled with the maximum volume percent of ethanol at all times the product is offered for retail sale.

2. A device that dispenses a reformulated gasoline, as defined in s. 285.37 (1), Stats., that contains an oxygenate other than ethanol shall be labeled with the identity of the oxygenate at all times the product is offered for retail sale. If the reformulated gasoline

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contains multiple oxygenates, the label shall identify the predominate oxygenate based upon volume percent.

Note: Reformulated gasoline is defined in s. 285.37 (1), Stats., as gasoline formulated to reduce emissions of volatile organic compounds and toxic air pollutants as provided in 42 USC 7545 (k) (1) to (3). The addition of an oxygenate to a fuel alone does not create a reformulated gasoline, other criteria specified in the law must also be met.

3. The label shall be placed on the face of the dispenser next to the name and grade of the product being dispensed. No label may be placed so that the text is sideways or upside down.

4. The label shall be contrasting in color to the dispenser and have lettering using not less than one−half inch high letters with a stroke of not less than one eighth inch in width.

5. The label shall identify the oxygenate as either "Ethanol", "Methyl Tertiary Butyl Ether (MTBE)", "Ethyl Tertiary Butyl Ether (ETBE)", "Tertiary Amyl Methyl Ether (TAME)", "Tertiary Butyl Alcohol (TBA)", or as an other oxygenate name approved by the department.

6. A label shall state that the product being dispensed "Contains" followed by the approved name for the oxygenate.

7. A label shall be conspicuous and legible to a customer when viewed from the driver's seat of a motor vehicle that is located within 6 feet of the dispensing device.

8. The label shall be capable of withstanding extremes of weather conditions for at least one year and shall be resistant to gasoline, oil, grease, solvents, detergents, and water. When damaged so that they are not legible, labels shall be replaced.

9. If a dispenser remains unlabeled after the expiration of orders issued by the department for labeling, and the owner does not file a written appeal within 15 calendar days of receiving the order, the department shall stop the sale of the product in accordance with s. Comm 48.100 (7).

(2) STORAGE CONTAINERS. (a) *Gasoline and similar products.* All containers for storing gasoline or any other product that has a flash point of less than 100°F when tested using either an ASTM D 56 or ASTM D 6450 closed tester shall be metal or equally sound nonflammable material meeting the requirements of ch. Comm 10, shall have the common name of the contents clearly labeled or painted on the exterior, and shall be substantially a bright red color. These requirements do not apply to any of the following:

1. Fuel supply tanks connected to internal combustion or turbine engines, appliances or any device consuming the fuel.

2. Any container holding one gallon or less of a petroleum product, which was filled originally by a manufacturer or a packager, and which complies with the federal standards for packaging and labeling.

3. Containers having a capacity of 275 gallons or more.

Note: Chapter Comm 10 regulates storage containers for flammable and combustible liquids, and adopts national standards that specify the materials which these containers must be constructed of – such as ASTM F 852, which addresses portable gasoline containers for consumer use.

(b) *Flash points of 100°F or greater.* Kerosene, diesel fuel, burner fuel oils and similar products of petroleum with a flash point of 100°F or greater when tested as stated in par. (a) may not be stored in any container which is in any manner colored red.

(3) MISLABELING. (a) *General.* Any person receiving, unloading, using, offering for sale or selling any petroleum product shall identify the product as to name or grade. Delivery of automotive fuel to a retail outlet shall include a certification of the automotive fuel rating, either by letter or on the delivery ticket or other paper, as required by 16 CFR 306.10 (g).

(b) *Used oils.* Any person representing, advertising, promoting for sale, offering for sale or selling any lubricating oil which has previously been used shall identify the product as such. The label shall contain the appropriate and descriptive words of "reclaimed used lubricating oil", "rerefined used lubricating oil", "recleaned used lubricating oil" or "reconditioned used lubricating oil."

(4) CLEANING OF DISPENSING EQUIPMENT. Any pipeline, hose, pump or metering device used for dispensing petroleum products shall be properly flushed and cleaned before dispensing a dissimilar petroleum product.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; renum. (1) (a) to be (4), cr. (1) (a), Register, May, 1984, No. 341, eff. 6−1−84; reprinted to correct error in (1) (a), Register, October, 1984, No. 346; r. and recr. (1), Register, February, 1986, No. 362, eff. 3−1−86; emerg. r. and recr. (1) (b), r. (1) (c), eff. 9−13−95; r. and recr. (1) (b), r. (1) (c), Register, May, 1996, No. 485, eff. 6−1−96; correction in (1) (b) 2. made under s. 13.93 (2m) (b) 7., Stats.; CR 03−011: am. (1) (a), (b) 1., 2., 3. and 5., r. and recr. (3) Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.10 to be Comm 48.580, am. (1) (b) 9., (2) and (3) (a) Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.590 Prohibited acts. (1) No person other than an operator of a refinery or terminal may deliberately deliver, unload, direct or transfer a lower grade of a petroleum product into a storage tank system labeled as containing a higher grade of petroleum product unless specifically approved in writing by an inspector.

(2) Except as authorized under sub. (1), no person may deliberately deliver, unload, direct or transfer dissimilar fuels, dissimilar octane or a dissimilar grade of petroleum products into a storage tank unless specifically approved in writing by an inspector.

(3) No person may hinder, divert or obstruct inspectors in the performance of their duties under the authority of this chapter.

(4) No person may represent a motor fuel or petroleum product in any manner that is contrary to the provisions and the adopted standards of this chapter, and the provisions of ch. 168, Stats.

(5) No person may deliver, place, receive or store in any portable container any product that has a flash point of less than 100°F when tested using either an ASTM D 56 or ASTM D 6450 closed tester, unless the container complies with s. Comm 48.580 (2) (a).

(6) No person may deliver, place, receive or store any kerosene, diesel fuel or burner oil, or a like product of petroleum that has a flash point of 100°F or more when tested using either an ASTM D 56 or ASTM D 6450 closed tester, in any portable container which is in any manner colored red.

History: CR 05−081: cr. Register August 2006 No. 608, eff. 9−1−06.

Comm 48.600 Inspection procedures. (1) INSPECTION OF PETROLEUM PRODUCTS. (a) *General.* All petroleum products imported into and received in this state shall be sampled by the department prior to being unloaded, sold, offered for sale or used.

(b) *Exceptions.* The inspection of petroleum products does not apply in the following situations:

1. Petroleum products previously inspected by the department at the refinery or at a marine or pipeline terminal within or without the state.

2. Where the department permits unloading of ships or boats due to an emergency declared by the coast guard or where a permit has been granted by the department.

3. Specialty motor fuels and petroleum products that will not be introduced into the wholesale or retail market stream.

(2) NOTIFICATION FOR INSPECTION. (a) The recipient of all petroleum products received on Monday through Friday shall notify the department between the hours of 7:45 a.m. and 4:30 p.m. The department shall be notified of any petroleum products received after 4:30 p.m. or received on a Saturday, Sunday or any legal holiday, between the hours of 7:45 a.m. and 10:00 a.m. of the next regular working day.

(b) If a person transfers one grade of a petroleum product into a container with another grade of petroleum product, the entire commingled product shall be deemed uninspected and the department shall be notified.

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(c) If no sample is taken by an inspector within the time limit specified, the receiver or commingler shall take a representative sample in accordance with the procedures in sub. (3) (c).

(d) For the purpose of this section, the department shall have discretion in determining a reasonable length of time in which an inspector may take the sample.

Note: Saturdays, Sundays and legal holidays are not considered regular business days.

(3) SAMPLING PROCEDURES. (a) *General.* A representative sample of at least 8 ounces shall be taken from every shipment of petroleum products, including commingled products, that is imported into and received in this state.

(b) *Department procedures.* 1. The department shall inspect each sample of petroleum product and perform the tests, deemed necessary, in accordance with the specifications as outlined in this chapter.

2. If the petroleum product does not meet the standards specified in this code, the department will notify the person for whom the inspection was made that the petroleum product shall not be sold, used or removed from storage until compliance with the standards are satisfied.

(c) *Sampling procedures by others.* 1. If the inspector does not, upon proper notice, after a reasonable length of time, take the sample as specified in sub. (2) (d), the recipient of the petroleum product may open the original container and take a representative sample of not less than 8 ounces of the contents. The sample shall be immediately placed in a clean container which is in compliance with s. Comm 48.590 (5) and (6) and which is then tightly closed.

2. The container holding the sample taken under subd. 1. shall be identified with all of the following information:

a. Means of conveyance (such as from a pipeline or tank car).

b. Type of original container.

c. Product name.

d. Content quantity.

3. The sample taken under this paragraph shall be held for delivery, upon demand, to the inspector. After the sample is taken, the petroleum product may be unloaded, sold, offered for sale or used the same as if sampled by the inspector. The sample shall be retained for 7 business days and then may be discarded.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; CR 03−011: r. (1) (a) 3., am. (3) (b) (intro.) Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.09 to be Comm 48.600, (1) (intro.) and (a) to be (1) (a) and (b), cr. (1) (b) 3., am. (2) (c) and (d), (3) (intro.), (a) (intro.) and 1. and (b) Register August 2006 No. 608, eff. 9−1−06.**

Comm 48.650 Reimbursement of product−analysis and investigation costs. (1) OUTSIDE TESTING. An owner or seller of products which are subjected to a qualitative analysis that cannot be performed by department equipment and which are therefore sent to an outside testing source shall reimburse the department for the cost of the analysis and shipping, and pay any fee assessed under ch. Comm 2.

(2) MISCELLANEOUS INVESTIGATIONS. An owner or seller of a product shall pay the department any fees assessed under ch. Comm 2 for any of the following:

(a) Investigation of product−performance complaints.

(b) Investigation of products subject to mislabeling.

(c) Investigation of accidents or explosions, under s. Comm 48.100 (5).

(3) WAIVER. All reimbursements and fees under this section shall be waived if the analysis or investigation determines that the corresponding product complies with this chapter.

(4) DUE DATE. All reimbursements and fees that are due under this section shall be paid within 15 calendar days of billing.

(5) CONTINUATION OF SHUTDOWN. Failure to pay any reimbursements or fees under this section, for a petroleum storage tank system that has been shut down under s. Comm 48.100 (7), shall result in a continuation of that shutdown.

History: CR 05−081: cr. Register August 2006 No. 608, eff. 9−1−06.

Comm 48.700 Records. (1) DEPARTMENT RECORDS. The department shall keep records of each inspection made showing:

(a) Time and place of each inspection;

(e) Product name of petroleum product inspected;

(f) Name and address of person for whom inspection is made.

(2) TRANSPORTATION RECORDS. Every person transporting petroleum products shall maintain records showing the shipment or receipt of petroleum products. The department shall have free access to the records for the purpose of determining the amount of petroleum products shipped or received.

(3) RECEIPT RECORDS. Every person receiving petroleum products shall maintain records, together with bills of lading, waybills and other pertinent documents, for at least 4 years, unless approval to the contrary is obtained from the department in writing. The department shall have free access to the records for the purpose of determining the amount of petroleum products shipped or received.

History: Cr. Register, July, 1980, No. 295, eff. 8−1−80; CR 03−011: r. (1) (b) to (d), am. (3) Register December 2003 No. 576, eff. 1−1−04; **CR 05−081: renum. Comm 48.11 to be Comm 48.700 Register August 2006 No. 608, eff. 9−1−06.**