The Wisconsin Department of Commerce proposes an order to repeal ss. Comm 10.01 (51) Note, 10.14 and 10.15, 10.17, 10.32 and Figures 10.32-1 to 10.32-3, 10.345 (1) (e), 10.345 (2), 10.415 (3), 10.415 (6) (a) to (i) and (n) to (o), 10.415 (10), 10.42 (4) (a) Note, 10.44 to 10.45, 10.46, 10.505 (2) Note, 10.52 (1), (2) (intro.), (2) (d), and (4), 10.56 Note, 10.57 (2), and 10.732 (3) Note;

to renumber ss. Comm 10.415 (6) (j) to (m), 10.52 (2) (a) to (c), and 10.57 (3) and (3m);

to renumber and amend s. Comm 10.52 (2) (a) 2;

to amend ss. Comm 10.001 (1), 10.01 (22), 10.01 (101p), 10.28 (4) (b), 10.29, 10.31 (1) (a), 10.335 (2), 10.34, 10.345 (1) (intro.) and (a), 10.36 (3) (a) 1. and (b), 10.415 (1) (a) and (2), 10.415 (7) (a) and (9) (a), 10.415 (11) (intro.) and 10.42 (1), 10.42 (4) (c), 10.455 (1), and Comm 51.25, Table 51.25-17;

to repeal and recreate ss. Comm 10.001 (2) (a), 10.01 (5) and (21), 10.01 (38) and (51), 10.01 (65) and (78), 10.10 (1) and (2), 10.125, 10.13, 10.16, 10.25 to 10.27, 10.28 (2) (b), 10.33 (1) (b) 5., 10.345 (1) (d), 10.37 (title) and (1), 10.415 (4) and Table 10.415, 10.415 (6) (title) and (intro.), 10.43, 10.51, 10.55 (2), and 10.57 (1);

and to create ss. Comm 10.01 (intro.) Note, 10.01 (51m), 10.01 (102m), 10.347, 10.475 and 10.52 (2) (a).

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Analysis of Proposed Rules

Statutory Authority: ss. 101.09 (3), 101.11 and 101.14 (4) (a), Stats.

Statutes Interpreted: ss. 101.09 (3), 101.11 (2), 101.14 (4) (a) and (g), and 101.142, Stats.

Under the statute sections listed above, the department has the responsibility to adopt rules for the safe storage, handling and use of flammable, combustible and hazardous liquids. The requirements established in this code encompass both fire and environmental safety aspects for flammable and combustible liquids and incorporate registration requirements for tanks that contain federally regulated hazardous substances.

The changes contained in this proposal are intended primarily to update adopted national standards, remove obsolete deadline requirements and streamline administrative processes. Some of the changes are designed to correct typographic errors and clarify ambiguous requirements. Wherever possible, conflicting rules in this chapter have been repealed so the requirement will be as specified in the current national standard. Additional requirements have been added for more frequent monitoring of corrosion protection measures. Requirements have also been added for the removal of heating oil tanks and for notifying heating oil vendors of the tank removal.

SECTION 1. Comm 10.001 (1) is amended to read:

Comm 10.001 (1) The purpose of this chapter is to provide for safe storage, display, installation, operation, use, maintenance and transportation of flammable and combustible liquids and the equipment, facilities and buildings that are used to store, transfer and dispense them.

SECTION 2. Comm 10.001 (2) (a) is repealed and recreated to read:

Comm 10.001 (2) (a) The rules of this chapter are intended to comply with s. 101.09 (3), Stats.

Note: s. 101.09 (3), Stats., reads in part: "The department shall promulgate by rule construction, maintenance and abandonment standards applicable to tanks for the storage, handling or use of liquids that are flammable or combustible or are federally regulated hazardous substances, and to the property and facilities where the tanks are located, for the purpose of protecting the waters of the state from harm due to contamination by liquids that are flammable or combustible or are federally regulated hazardous substances."

Note: The definition of federally regulated hazardous substances as defined under s. 101.09, Stats., corresponds to the CERCLA List of Hazardous Substances and Reportable Quantities contained in 40 CFR part 302.4, Table 302.4.

SECTION 3. Comm 10.01 (intro.) Note is created to read:

Note: For definitions of technical terms not included in this code, the Petroleum Equipment Lexicon is a helpful source. It is available from PEI at the address in Table 10.25-6.

SECTION 4. Comm 10.01 (5) and (21) are repealed and recreated to read:

Comm 10.01 (5) "Authorized agent" means either the LPO, or the department in areas of the state where there is no LPO.

Note: See s. Comm 10.01 (51m) for the definition of LPO.

Comm 10.01 (21) "Change-in-service" means continued use of a storage tank system in another status or continued use of a tank that previously stored a regulated substance to store a non-regulated substance.

Note: An example of change-in-service resulting from another status is an in-use tank that moves to temporary-out-of service status. An example of change-in service resulting from a previously stored regulated substance to storage of a non-regulated substance is a tank storing heating oil converted to a storage tank for water.

SECTION 5. Comm 10.01 (22) is amended to read:

Comm 10.01 (22) "Combustible liquid" means a liquid having a flash point at or above 100°F. Combustible liquids are subdivided as follows:

(a) "Class II liquids" means those having flash points at or above 100°F and below 140°F.

(b) "Class IIIA liquids" means those having flash points at or above 140°F and below 200°F.

(c) "Class IIIB liquids" means " means those having flash points at or above 200°F. ~~This chapter does not cover Class IIIB liquids.~~

~~**Note:** Where the terms "Combustible Liquids" or "Class III Liquids" are used in this chapter they mean Class IIIA liquids only.~~

~~**Note:** The upper limit of 200°F is given because the application of this chapter does not extend to liquids having flash points above 200°F and, therefore, this limitation should not be construed as indicating that liquids with higher flash points are noncombustible.~~

SECTION 6. Comm 10.01 (38) and (51) are repealed and recreated to read:

Comm 10.01 (38) "Flash point" means the minimum temperature at which a liquid will give off sufficient vapor to form an ignitable mixture with air near the surface of the liquid or within the test vessel.

Note: See NFPA 30 for the appropriate test method for a specific liquid.

Comm 10.01 (51) "Listed and labeled" means equipment or materials to which has been attached a label or identifying mark by, and which is included in a list published by, an organization acceptable to the department that is concerned with product evaluation, that maintains periodic inspections of listed and labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance for a specified purpose.

SECTION 7. Comm 10.01 (51m) is created to read:

Comm 10.01 (51m) "LPO" or "Local program operator" means an entity, either public or private, under contract with the department to enforce the provisions of this chapter and provide tank system plan review and inspection services in a specific region of the state.

SECTION 8. Comm 10.01 (65) and (78) are repealed and recreated to read:

Comm 10.01 (65) "Owner" means: (a) In the case of an in-use storage tank system, any person who owns at least the tank storage portion of a storage tank system used for storage or dispensing of regulated substances or the person owning the property on which the storage tank system is located.

(b) In the case of a storage tank system not in use, any person who owned at least the tank storage portion of the storage tank system immediately prior to the discontinuation of its use, or the person owning the property on which the storage tank system is located.

Comm 10.01 (78) "Regulated substance" means any flammable or combustible liquid and any liquid that is a federally regulated hazardous substance as defined under s. 101.09, Stats.

Note: The definition of federally regulated hazardous substances as defined under s. 101.09, Stats., corresponds to the CERCLA List of Hazardous Substances and Reportable Quantities contained in 40 CFR part 302.4, Table 302.4.

SECTION 9. Comm 10.01 (101p) is amended to read:

Comm 10.01 (101p) "Used product" means a flammable, ~~or~~ combustible or hazardous liquid ~~with a flash point of 200F or lower~~ that is no longer suitable for its original use, has been contaminated, or has been mixed with other products.

SECTION 10. Comm 10.01 (102m) is created to read:

Comm 10.01 (102m) "Vehicle collision protection" means a structure or mechanism to protect a tank or system component from vehicle impact.

SECTION 11. Comm 10.10 (1) and (2) are repealed and recreated to read:

Comm 10.10 Approval of proposed construction, installation or operation. (1) GENERAL. (a) Plan review and written approval from the authorized agent shall be obtained before any of the following activities are performed on storage tanks used to store a regulated substance:

1. Commencing any construction of new or additional aboveground or underground tank installation or piping installation.

2. Changing the operation of an installation from storage of a non-regulated substance to a regulated substance.

3. Adding or modifying tank or pipe corrosion protection.

4. Adding vapor or groundwater monitoring wells.

5. Adding leak detection.

6. Adding spill or overfill protection.

7. Tank lining.

8. Converting a full-service station to a self-service station or converting to the use of key-, card- or code-operated dispensing devices.

(b) Approval is not required for either of the following:

1. Oil-burning installations for one- and 2-family dwellings located aboveground or in basements.

2. Integral fuel supply tanks of a motor vehicle, aircraft, watercraft, mobile power plant or mobile heating plant.

(2) AUTHORIZED AGENT APPROVAL. (a) *Exercise of jurisdiction*. With the approval of the chief elected municipal official, the municipality shall determine if a municipal department or other authorized agent approved by the department will exercise jurisdiction over the provisions of this chapter.

(b) *Plan review and approval.* 1. Plans for installations in which all tanks for the storage, handling or use of flammable or combustible liquids have an individual capacity of less than 5000 gallons shall be submitted for review and approved in writing by the authorized agent.

2. The review of plans and the installation inspection for compliance with the provisions of this chapter shall be performed by a certified tank inspector as designated by the department.

SECTION 12. Comm 10.125 is repealed and recreated to read:

Comm 10.125 Specific approval of materials, equipment, concepts, technology and devices. (1) SPECIFIC APPROVAL REQUIRED. Specific approval shall be obtained in writing from the department for the following items:

(a) Any leak detection method for tanks or piping used to comply with a leak detection requirement under this chapter or federal law.

(b) Flexible non-metallic piping.

(c) Synthetic flexible dike liners.

(2) DISCRETIONARY APPROVAL. (a) The department may require specific, written approval in accordance with sub. (3) for the use of new or unproven materials, equipment, concepts, technology or devices. This approval may specify conditions or limitations.

(b) Any person may request specific, written approval in accordance with sub. (3) for uses or new or unproven materials, equipment, concepts, technology or devices not specified in this code.

(3) APPLICATION FOR APPROVAL. (a) *General.* 1. Application for approval shall include sufficient test results or other evidence from an independent third party to prove that the material, equipment, concept, technology or device meets the requirements or the intent of this chapter.

2. Application for approval shall include information on inspection, testing and maintenance of the product.

3. Upon receipt of a completed application, the fee specified in ch. Comm 2, and all information and documentation needed to complete the review, the department will review and make a determination on an application for approval within 60 business days.

(b) *Leak detection methods*. The application for approval of leak detection methods specified in sub. (1) (a) shall include certification from an independent third party that the method has been evaluated in accordance with the applicable USEPA standard test procedure for evaluating the method.

(c) *Flexible non-metallic piping*. The application for approval of flexible non-metallic piping shall include certification from an independent third party that the material has been evaluated in accordance with UL 971 - Nonmetallic Underground Piping for Flammable Liquids or an equivalent standard.

(d) *Synthetic flexible dike liners*. 1. The application for approval of synthetic flexible dike liners shall include certification from an independent third party that the material has been evaluated according to a protocol acceptable to the department, along with information on product compatibility, construction methods and specifications, field installation, seam testing procedures, bedding specifications and any required soil cover.

2. For flexible dike liners that do not require a soil cover, information shall be submitted that assesses the fire hazard of the exposed liner material.

(4) PRODUCTS REQUIRING LISTING AND LABELING. The following products or materials shall be listed and labeled to show compliance with a standard developed by a nationally recognized association or independent testing laboratory that is recognized by the department:

(a) Shop-built tanks and metallic flex connectors.

(b) Any product or material required to be listed or labeled by a standard adopted under s. Comm 10.25.

Note: Copies of the department forms required in this chapter are available from the Division of Environmental and Regulatory Services at P.O. Box 7837, Madison, WI, 53707-7837, or at telephone (608) 266-7874, or from the Division's web site at http://www.commerce.state.wi.us/ER/ER-BST-FM-Comm10Forms.html

SECTION 13. Comm 10.13 is repealed and recreated to read:

Comm 10.13 Tank Registration. (1) GENERAL. (a) Except as provided in par. (b), all storage tanks used to store a regulated substance shall be registered with the department.

(b) The following tanks do not require registration with the department:

1. Dedicated breakout tanks at pipeline facilities.

2. Any aboveground tanks of 110 gallons or less capacity.

3. Farm and residential aboveground tanks of 1,100 gallons or less capacity.

4. Aboveground tanks of 660 gallon or less capacity storing heating oil for consumptive use on the premises.

5. Aboveground tanks of 660 gallon or less capacity located inside a building used for industrial processes.

Note: Per Wisconsin Statutes, eligibility for Petroleum Environmental Cleanup Fund Act (PECFA) funds requires prior tank registration.

(2) REGISTRATION DEADLINES AND RESPONSIBLE PARTIES. (a) The owner of a newly-installed storage tank shall register the tank within 15 days of completion of the installation.

(b) The new owner of an existing storage tank undergoing a change in ownership shall register within 15 days of the change.

(c) The owner of an existing tank at a facility that undergoes a name change or an owner who undergoes a change of name or mailing address shall register the change within 15 days.

(d) The owner of an existing tank system that undergoes any of the following changes or modifications shall register the change or modification within 15 days of completion:

1. A storage tank undergoing a change in service.

2. Temporary or permanent closure.

3. The addition of release detection, spill or overfill control or corrosion protection for any part of the system.

4. Interior tank lining.

(e) The owner of a permanently closed or removed tank shall register within 15 days of closure or removal.

(f) The owner of land on which unregistered tanks are discovered, including any that were permanently closed or removed, shall register the tanks within 15 days of discovery.

(3) REGISTRATION PROCEDURE. One storage tank registration form for each tank shall be completed and submitted to the department by the owner.

Note: Form ERS-7437 - Underground Storage Tank Registration and form ERS-8731 - Aboveground Storage Tank Registration required under this section are available from the Division of Environmental and Regulatory Services at P.O. Box 7837, Madison, WI, 53707-7837, or at telephone (608) 266-7874, or from the Division's web site at http://www.commerce.state.wi.us/ER/ER-BST-FM-Comm10Forms.html

SECTION 14. Comm 10.14 and 10.15 are repealed.

SECTION 15. Comm 10.16 is repealed and recreated to read:

Comm 10.16 Tank permits. (1) GENERAL. (a) Except as provided in par. (b), all in-use and temporarily out-of-service storage tanks used to store a regulated substance shall obtain a permit to operate from the department.

(b) The following tanks do not require a permit to operate from the department:

1. Any aboveground tank.

2. Farm and residential underground storage tanks of 1,100 gallon or less capacity used for storing motor fuel.

3. Underground storage tanks of 4,000 gallon or less capacity storing heating oil for consumptive use on the premises.

(2) PERMIT APPLICATION TIMELINE. The tank owner shall obtain a permit to operate after all requirements for plan approval under s. Comm 10.10 and registration under s. Comm 10.13 are completed and the tank is installed, but before the tank is placed in service.

(3) PERMIT APPLICATION PROCEDURE. The owner shall complete one permit application form for each tank and submit it to the department together with all of the following:

(a) For all permit applications and renewals:

1. The most recent test report for any cathodic protection or impressed current system.

2. Proof of financial responsibility as specified in subch. VIII of this code.

3. Proof of compliance with leak detection requirements.

(b) For the initial permit application only, also submit the following:

1. A completed tank installation inspection checklist, completed by the installer.

2. A tank locator diagram, map or plot plan drawn to scale specifying the exact individual tank location in relation to streets, buildings, and compass direction, unless previously submitted to the department as part of the plan review process under s. Comm 10.10.

Note: Forms ERS-7658 - Storage Tank Use Permit Application and ERS-6294 - Storage Tank Installation Inspection Checklist required under this section are available from the Division of Environmental and Regulatory Services at P.O. Box 7837, Madison, WI, 53707-7837, or at telephone (608) 266-7874, or from the Division's web site at http://www.commerce.state.wi.us/ER/ER-BST-FM-Comm10Forms.html

(4) PERMIT PROCESSING. (a) The department will review and make a determination on the permit application within 30 business days of receipt of the completed forms and required information.

(b) Upon review and acceptance of the required forms and information specified in sub. (3), the department will issue an underground storage tank use permit for each storage tank.

(5) PERMIT EXPIRATION AND RENEWAL. (a) The underground storage tank use permit will expire 1 year from the date of issuance.

(b) The tank owner of record will be sent a permit renewal notice by the department before the expiration of the current permit.

(c) The tank owner shall follow the procedure under sub. (3) to renew the permit.

SECTION 16. Comm 10.17 is repealed.

SECTION 17. Comm 10.25 to 10.27 are repealed and recreated to read:

Comm 10.25 Adoption of standards by reference. (1) CONSENT TO INCORPORATE. 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 Tables 10.25 - 1 to 10.25-8.

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 through the respective organizations listed in Tables 10.25 - 1 to 10.25 - 8.

(2) ALTERNATE STANDARDS. Alternate standards that are equivalent to or more stringent than the standards incorporated by reference in this code may be used in lieu of incorporated standards if the alternate standard is approved by the department, or if written approval is issued by the department in accordance with s. Comm 10.125 (2) (a), under all of the following conditions:

(a) Determination of approval shall be based on an analysis of the alternate standard and the incorporated standard, prepared by a qualified independent third party or the organization that published the incorporated standard.

(b) The department may include specific conditions in issuing an approval, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this code.

(c) If the department determines that the alternate standard is not equivalent to or more stringent than the standards incorporated by reference, the request for approval will be denied in writing.

(d) The department may revoke an approval for any false statements or misrepresentations of facts on which the approval was based. The department may re-examine an approved alternate standard or issue a revised approval at any time.

Table 10.25-1

API	American Petroleum Institute 1220 L Street, NW Washington, DC 20005
Standard Reference Number	**Title**
1. API 650 - 98	Welded Steel Tanks For Oil Storage.
2. API 651 - 97	Cathodic Protection of Aboveground Petroleum Storage Tanks.
3. API 652 - 97	Lining of Aboveground Petroleum Storage Tank Bottoms.
4. API 653 - 2001	Tank Inspection, Repair, Alteration, & Reconstruction.
5. API 1604 - 96	Closure of Underground Petroleum Storage Tanks.
6. API 1615 - 96	Installation of Underground Petroleum Storage Systems.
7. API 1621 - 93	Bulk Liquid Stock Control at Retail Outlets.
8. API 1631 - 2001	Interior Lining & Periodic Inspection of Underground Storage Tanks.
9. API 1632 - 96	Cathodic Protection of Underground Petroleum Storage Tanks & Piping Systems.
10. API 1637 - 95	Using the API Color-Symbol System to Mark Equipment & Vehicles for Product Identification at Service Stations & Distribution Terminals.
11. API 2000 - 98	Venting Atmospheric & Low-Pressure Storage Tanks.
12. API 2015 - 2001	Requirements for Safe Entry & Cleaning of Petroleum Storage Tanks.
13. API 2200 - 94 (Reaffirmed in 1999)	Repairing Crude Oil, LP Gas and Product Pipelines.
14. API 2350 - 96	Overfill Protection for Storage Tanks in Petroleum Facilities.
15. API 2610 - 94	Design, Construction, Operation, Maintenance and Inspection of Terminal and Tank Facilities.

Table 10.25-2

KWA	Ken Wilcox Associates 1125 Valley Ridge Drive Grain Valley, MO 64029
Standard Reference Number	**Title**
	Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera.

Table 10.25-3

NACE	NACE International P.O. Box 218340 Houston, TX 77218
Standard Reference Number	**Title**
1. RP 0169-96	Recommended Practice, Control of External Corrosion on Underground or Submerged Metallic Piping Systems.
2. RP 0188-99	Discontinuity (Holiday) Testing of Protective Coatings.
3. RP 0190-95	External Protective Coatings for Joints, Fittings & Valves on Metallic Underground or Submerged Pipelines & Piping Systems.
4. RP 0193-2001	External Cathodic Protection of On-Grade Carbon Steel Storage Tank Bottoms.
5. RP 0285-95	Recommended Practice, Control of External Corrosion of Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems.
6. RP 0286-97	Electrical Isolation of Cathodically Protected Pipelines.
7. TM 0497-97	Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems.

Table 10.25-4

NFPA	National Fire Protection Association 1 Batterymarch Park Quincy, MA 02269
Standard Reference Number	**Title**
1. 30 - 2000	Flammable and Combustible Liquids Code.
2. 30A - 2000	Code for Motor Fuel Dispensing Facilities & Repair Garages.
3. 30B - 1998	Code for the Manufacture & Storage of Aerosol Products.
4. 31 - 2001	Standard for the Installation of Oil-Burning Equipment.
5. 33 - 2000	Standard for Spray Application Using Flammable and Combustible Materials.
6. 34 - 2000	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids.
7. 35 - 1999	Standard for the Manufacture of Organic Coatings.
8. 37 - 1998	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines.

9. 45 - 2000	Standard on Fire Protection for Laboratories Using Chemicals.
10. 68 - 1998	Standard for Venting of Deflagrations.
11. 326 - 1999	Standard for Safeguarding Tanks & Containers for Entry, Cleaning or Repair.
12. 385 - 2000	Standard for Tank Vehicles for Flammable and Combustible Liquids.
13. 395 - 1993	Standard for Storage of Flammable & Combustible Liquids on Farms & Isolated Sites.
14. 407 - 2001	Standard for Aircraft Fuel Servicing.
15. 415 - 1997	Standard for Airport Terminal Buildings, Fueling Ramp Drainage and Loading Walkways.

Table 10.25-5

NLPA	National Leak Prevention Association 7685 Fields Ertel Road Cincinnati, OH 45241
Standard Reference Number	**Title**
1. 632 - 1990	Internal Inspection of Steel Tanks for Upgrading With Cathodic Protection Without Lining.

Table 10.25-6

PEI	Petroleum Equipment Institute P.O. Box 2380 Tulsa, OK 74101
Standard Reference Number	**Title**
1. RP100, 2000	Recommended Practices for Installation of Underground Liquid Storage Systems.
2. RP200, 1999	Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling.
3. RP300, 1997	Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Fueling Sites.
4. Lexicon, 1995	Petroleum Equipment Lexicon.

Table 10.25-7

SSPC	Society for Protective Coatings 40 24th Street Pittsburgh, PA 15222
Standard Reference Number	**Title**
1. VIS 2	Standard Method of Evaluating Degree of Rusting On Painted Steel Surfaces.

Table 10.25-8

STI	Steel Tank Institute 570 Oakwood Road Lake Zurich, IL 60047
Standard Reference Number	**Title**
1. SP001-00	Standard for Inspection of In-Service Shop-Fabricated Aboveground Tanks for Storage of Combustible and Flammable Liquids.

Comm 10.26 Secondary references. For the purposes of this chapter, the department will enforce the applicable provisions of the following Wisconsin administrative codes in lieu of the indicated standards that are referenced in the adopted NFPA standards:

(1) BOILERS AND PRESSURE VESSELS. Chapter Comm 41 in lieu of the ASME Boiler and Pressure Vessel Code.

(2) BUILDING ELEMENTS. Chapters Comm 50 to 64 in lieu of the following NFPA standards:

(a) NFPA 101 - Life Safety Code.

(b) NFPA 220 - Standard on Types of Building Construction.

(c) NFPA 221 - Standard for Fire Walls and Fire Barrier Walls.

(3) ELECTRICAL INSTALLATIONS. Chapter Comm 16 in lieu of NFPA 70 - National Electrical Code.

Comm 10.27 Application of standards. (1) Except as otherwise provided in this chapter, all flammable and combustible liquids, and equipment, facilities, and the buildings that are used to store them shall be designed, constructed, installed, operated, inspected, tested and maintained as specified in the standards adopted in s. Comm 10.25, as they apply to the specific liquid, equipment, facility or building.

(2) All fire detection, prevention, suppression and isolation features required by a standard adopted under s. Comm 10.25 shall be provided as specified in the standard.

SECTION 18. Comm 10.28 (2) (b) is repealed and recreated to read:

Comm 10.28 (2) (b) Liquids having a flash point of less than 100°F may not be dispensed into a portable container or portable tank unless both of the following conditions are met:

1. The container or tank is substantially bright red in color.

2. The container or tank has a listing mark from an independent testing agency.

SECTION 19. Comm 10.28 (4) (b) is amended to read:

Comm 10.28 (4) (b) Industrial processes requiring use of class I flammable liquids for degreasing or cleaning ~~any engine, machine or part~~ shall ~~be designed to~~ incorporate a ventilation system to reduce and maintain vapor concentration to less than 25% of the lower explosive limit. ~~The interior of closed vessels may be cleaned with class I flammable liquids in an inert atmosphere as specified in s. 9-3 of NFPA 35.~~

SECTION 20. Comm 10.29 and (title) are amended to read:

Comm 10.29 (title) ~~Race track~~ Racetrack fueling stations. Tanks of racing vehicles shall be filled from safety cans, fixed pumping facilities or from properly mounted contractor tanks ~~designed in accordance with s. Comm 10.32~~. During a race in which a vehicle is competing, the vehicle may be refueled while its engine is running. Signs prohibiting smoking in fueling areas shall be posted and an approved fire extinguisher of at least 20 B:C classification shall be provided at each fueling location.

SECTION 21. Comm 10.31 (1) (a) is amended to read:

Comm 10.31 (1) (a) The fueling of motor vehicles shall be in accordance with ~~the provisions of~~ NFPA ~~Standards~~ 30 and 30A as adopted in s. Comm 10.25 unless otherwise specified in this chapter.

SECTION 22. Comm 10.32 and Figures 10.32-1 to 10.32-3 are repealed.

SECTION 23. Comm 10.33 (1) (b) 5. is repealed and recreated to read:

Comm 10.33 (1) (b) 5. The placement of tanks shall be in accordance with NFPA 30.

SECTION 24. Comm 10.335 (2) is amended to read:

Comm 10.335 (2) USE AND HANDLING. Other aspects of use and handling of used motor vehicle engine crankcase oil not described in sub. (1) shall comply with the requirements of this chapter for Class ~~IIIA~~ IIIB combustible liquids.

SECTION 25. Comm 10.34 is amended to read:

Comm 10.34 Tanks used as pressure vessels. Tanks used as pressure vessels shall be constructed of steel and shall comply with the applicable provisions of ~~chs. Comm 41-42~~ ch. Comm 41.

SECTION 26. Comm 10.345 (1) (intro.) and (a) are amended to read:

Comm 10.345 (1) NEW AND REPLACEMENT TANKS. (intro.) In addition to the requirements ~~specified~~ in ~~s. 2-2.3.3 of~~ NFPA ~~Standard~~ 30, dike systems for new and replacement outside aboveground storage tanks shall comply with this subsection.

(a) The capacity of the dike system shall be 25% larger than required by ~~s. 2-2.3.3 (b) of~~ NFPA ~~Standard~~ 30.

SECTION 27. Comm 10.345 (1) (d) is repealed and recreated to read:

Comm 10.345 (1) (d) 1. The walls of the dike system shall be constructed of earth, solid masonry, steel, or poured or precast concrete.

2. Dikes with the walls and floor made of steel or poured or precast concrete shall have all cracks, seams and joints sealed to be liquid-tight.

3. Dikes with the walls or floor made of earth or masonry shall be lined with a synthetic material having a maximum permeability of 10^{-6} centimeters per second for the substance stored.

4. Synthetic liners shall be installed under the direct supervision of a qualified representative of the manufacturer.

5. All synthetic liners and their seams shall be tested and maintained in accordance with the manufacturer's recommendations.

SECTION 28. Comm 10.345 (1) (e) and Comm 10.345 (2) are repealed.

SECTION 29. Comm 10.347 is created to read:

Comm 10.347 Vehicle collision protection. (1) Except for tanks covered under part 5 of this subchapter, vehicle collision protection is required for any tank or system component that could result in a release of product when damaged, in any area where impact due to speed, turning, or backing of any type of motorized or self-propelled vehicle is likely to occur.

(2) There shall be at least 24 inches of clearance between a vehicle impact barrier and the tank or system component to be protected.

(3) Except as provided in sub. (4), impact barriers shall be designed to protect the tank from impact damage by the force of the largest vehicle routinely in the traffic area traveling at 5 miles per hour or at the average traveling speed, if higher than 5 miles per hour.

(4) For impact barriers designed primarily to protect from impact of automobiles, the barrier shall be capable of withstanding a minimum horizontal live load of 1000 pounds per lineal foot acting at 18 inches above grade level.

Note: For many applications, the department will accept either D.O.T. guardrails or 4-inch steel posts filled with concrete, set at least 3 feet into the ground and spaced no more than 4 feet on center.

SECTION 30. Comm 10.36 (3) (a) 1. and (b) are amended to read:

Comm 10.36 (3) (a) 1. To permanently close an aboveground storage tank system, owners and operators shall empty and clean it ~~by removing all liquids and accumulated sludges~~ in accordance with ~~the procedures specified in~~ API ~~Publication~~ 2015 ~~Cleaning Petroleum Storage Tanks~~. ~~Tanks shall be inerted so that the composition of the atmosphere inside the tank is not more than 10% of the lower explosive limit for the stored product prior to performing any other work on the tank.~~

(b) Continued use of an aboveground storage tank system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank ~~by removing all liquids and accumulated sludges~~ in accordance with ~~the procedures specified in~~ API ~~Publication~~ 2015 ~~Cleaning Petroleum Storage Tanks. Cleaning of tanks shall be performed by persons certified by the department to do such work~~.

SECTION 31. Comm 10.37 (title) and (1) are repealed and recreated to read:

Comm 10.37 General requirements for bulk plants and terminals. (1) LESSER CLEARANCES AT BULK PLANTS THAT WERE IN EXISTENCE BEFORE MAY 1, 1991. Bulk plant facilities that were in existence before May 1, 1991 may be renovated or updated, but no additional storage capacity is permitted in violation of the clearances specified in NFPA 30.

SECTION 32. Comm 10.415 (1) (a) and (2) are amended to read:

Comm 10.415 (1) (a) ~~The storage of fuel for motor vehicles at service stations shall comply with ch. 2 of NFPA 30A, except that aboveground tank systems may be used at marinas, private airports that are registered with the federal government or department of transportation, and retail, commercial, industrial, and governmental establishments in accordance with this section.~~ Aboveground tanks ~~shall~~ may not be used for vehicle fueling at residences except as provided in s. Comm 10.42 (3).

(2) (title) ~~TANK~~ DESIGN, ~~AND~~ CONSTRUCTION AND INSTALLATION. (a) The design, construction and installation of aboveground tanks for motor vehicle fueling shall comply with ~~chapter 2 of NFPA 30~~ NFPA 30A and this subsection.

(b) Tanks shall be listed and labeled for aboveground use. ~~Tanks shall be placed on a properly engineered base and elevated at least one foot above the dike floor.~~

SECTION 33. Comm 10.415 (3) is repealed.

SECTION 34. Comm 10.415 (4) and Table 10.415 are repealed and recreated to read:

Comm 10.415 (4) LOCATION. (a) The setbacks specified in Table 10.415 shall be maintained at all times.

(b) 1. The setback distances for vaulted tanks shall be measured from the outer perimeter of the vault.

2. The setback distances for tanks that are placed in dikes shall be measured from the inner edge of the dike wall.

3. The setback distances for all tanks other than vaulted or diked tanks shall be measured from the outermost surface of the tank.

TABLE 10.415
Setbacks for Aboveground Tanks Used for Motor Vehicle Fueling

Type of Tank	Individual Tank Capacity (gal)	Setback from nearest important building on same property (ft)	Setback from nearest retail dispenser (ft)	Setback from lot line that can be built upon, including the far side of a public way (ft)	Setback from near side of a public way (ft)	Minimum distance between tanks (ft)
Vaulted[1]	0-15,000	0	0	0	0	Separate compart-ment for each tank
Protected[2]	0-6,000	5	25	15	5	3
	6,001-12,000	15	25	25	15	3
Fire - Resistant[3]	0-2,000	25	25	25	25	3
	2,001-12,000	25	25	50	25	3
Other Code Complying Tanks	0-2,000	25	30	50	50	3
	2,001-12,000	50	50	100	50	3

[1]A vaulted tank is one placed in a liquid-tight concrete enclosure consisting of 4 walls, a top and a bottom that completely encloses the tank and provides protection from physical damage and limits heat transfer from a high intensity liquid pool fire.
[2]A protected tank is a listed and labeled system that consists of a primary tank along with integral secondary containment that provides protection from physical damage and limits heat transfer from a high intensity liquid pool fire. Systems listed as complying with UL 2085 or an equivalent standard are considered protected tanks.
[3]A fire-resistant tank is a listed and labeled primary tank with or without integral secondary containment that provides protection from heat transfer from a high intensity liquid pool fire. Systems listed as complying with UL 2080 or an equivalent standard are considered fire-resistant tanks.

SECTION 35. Comm 10.415 (6) (title) and (intro.) are repealed and recreated to read:

Comm 10.415 (6) TANKS IN VAULTS. Tanks placed in vaults shall comply with the requirements of NFPA 30, NFPA 30A and all of the following:

SECTION 36. Comm 10.415 (6) (a) to (i) and (n) to (o) are repealed.

SECTION 37. Comm 10.415 (6) (j) to (m) are renumbered Comm 10.415 (6) (a) to (d).

SECTION 38. Comm 10.415 (7) (a), and (9) (a) are amended to read:

Comm 10.415 (7) (a) ~~Aboveground~~ Diking used to provide secondary containment for aboveground motor fuel tanks shall ~~be placed within dikes which conform to section 2-2.3.3 of~~ comply with NFPA ~~Standard~~ 30 and ~~with~~ s. Comm 10.345 (1).

Comm 10.415 (9) (a) Piping, valves and fittings shall comply with ~~ch. 3 of~~ NFPA 30 and this subsection.

SECTION 39. Comm 10.415 (10) is repealed.

SECTION 40. Comm 10.415 (11) (intro.) and Comm 10.42 (1) are amended to read:

Comm 10.415 (11) (intro.) VENTS AND FILL OPENINGS. Vents and other openings in aboveground vehicle fueling tanks shall be provided in accordance with ~~section 2-2 of~~ NFPA 30 and ~~with~~ this subsection.

Comm 10.42 (1) GENERAL. Except as otherwise provided in this section, ~~the~~ dispensing of Class I or II liquids into the tanks of self-propelled marine craft having a fuel capacity of less than 10,500 gallons shall comply with the requirements of NFPA ~~Standard~~ 30A.

SECTION 41. Comm 10.42 (4) (a) Note is repealed.

SECTION 42. Comm 10.42 (4) (c) is amended to read:

Comm 10.42 (4) (c) The tank vehicle complies with ~~the requirements of~~ NFPA ~~Standard~~ 385.

SECTION 43. Comm 10.43 is repealed and recreated to read:

Comm 10.43 Farms and construction sites. The storage and handling of flammable and combustible liquids at farms and at temporary, isolated construction sites shall comply with the requirements of NFPA 395 and s. Comm 10.455.

SECTION 44. Comm 10.44 to 10.45 are repealed.

SECTION 45. Comm 10.455 (1) is amended to read:

Comm 10.455 (1) TANK LISTING. The tank shall be listed and labeled for aboveground use ~~in accordance with standards recognized by the department as specified in s. Comm 10.27~~.

SECTION 46. Comm 10.46 is repealed.

SECTION 47. Comm 10.475 is created (at the end of Subchapter V, Part 6) to read:

Comm 10.475 Heating oil tanks that are removed from service. (1) APPLICATION. This section applies to heating oil storage tanks that are connected to heating appliances and that store heating oil that is consumed on the premises.

(2) GENERAL. A heating oil storage tank that is placed out of service for any reason other than immediate repair or replacement shall follow the procedure in either par. (a) or (b):

(a) The tank and all connected piping, including the vent and fill piping, shall be emptied, cleaned and removed from the premises.

(b) 1. The tank and all connected piping shall be emptied and purged of all vapors.

2. If the tank is not removed, the tank vent shall remain intact and open.

3. If the outside fill pipe is not removed, it shall be filled with concrete to the top of the pipe and capped.

4. Any piping that is not removed, other than a tank vent, shall be capped or otherwise sealed.

(3) RESPONSIBLE PARTIES. (a) *Contractors.* A person who is under contract, with the person who owns or controls a property, to remove a heating oil storage tank or to place a heating oil storage tank out of service shall be responsible for complying with the requirements under sub. (2).

(b) *Owners.* If there is no contractor, the person who owns or controls a property from which a heating oil storage tank is removed, or on which a heating oil storage tank is placed out of service, shall be responsible for complying with the requirements under sub. (2).

(4) NOTIFICATION REQUIREMENT. The person who owns or controls property from which a heating oil storage tank has been removed, or on which a heating oil storage tank has been placed out of service, shall provide written notice to the current heating oil vendor within 7 days after removing the tank or placing the tank out of service. If there is a scheduled delivery in less than 7 days, notification may be given verbally provided it is followed by written notification within 7 days after verbal notification.

SECTION 48. Comm 10.505 (2) Note is repealed.

SECTION 49. Comm 10.51 is repealed and recreated to read:

Comm 10.51 (1) GENERAL. (a) Owners and operators of UST systems shall meet the requirements of this part.

(b) Tanks and piping shall be installed, maintained and operated in accordance with this section and ss. Comm 10.52 to 10.58.

(2) CORROSION PROTECTION. (a) Any portion of a tank and piping that is in contact with the ground shall be protected from corrosion by one of the following methods:

1. The tank and piping shall be constructed of an inherently corrosion-resistant material.

2. The tank and piping shall be protected from corrosion in accordance with a standard developed by a nationally recognized association or independent testing laboratory that is acceptable to the department.

3. The tank and piping shall be protected with a cathodic protection system designed by a NACE-certified corrosion specialist or cathodic protection specialist.

4. The tank and piping shall be installed at a site that is determined by a NACE-certified corrosion specialist or cathodic protection specialist to be non-corrosive during the operational life of the system.

Note: See s. Comm 10.25, Table 10.25-3 for information on contacting NACE.

(b) Specialists retained for the purpose of complying with the options under par. (a) 3. or 4. shall make at least one personal visit to each tank site during the design stage.

(3) FLEXIBLE CONNECTIONS. Flexible piping approved under s. Comm 10.125 or listed metallic flex connectors shall be used in all of the following locations:

(a) At the top of the tank.

(b) Between the tank and the vent pipe.

(c) Below the dispenser.

(d) In fiberglass pipe, where there are sections less than 4 feet long between turns.

(4) SYSTEM ACCESS. (a) All underground storage tank systems shall be designed and constructed to allow access to all connections between the tank and piping, venting, and appurtenances that require maintenance or replacement.

(b) The means of access shall be sufficient in size to allow for installation, maintenance and inspection of all system appurtenances.

(5) SPILL AND OVERFILL PREVENTION. All underground storage tank systems shall be provided with the following equipment:

(a) A catch basin or similar equipment to contain spillage.

(b) Overfill prevention equipment that does at least one of the following:

1. Restricts flow 30 minutes prior to overflow.

2. Alerts the operator with a high-level alarm at least one minute prior to overflow.

3. Automatically shuts off flow so that no fittings on top of the tank are exposed to product.

(6) INSTALLATION. (a) All tanks and piping shall be installed by an installer who has been certified in accordance with ch. Comm 5.

(b) All installation shall be according to the manufacturer's instructions, the applicable national standards adopted under s. Comm 10.25 and this code.

(7) CERTIFICATION OF INSTALLATION. Upon completion of any installation of new or replacement tanks or piping, or any system modification or upgrade that requires plan approval or registration or permitting, the contractor shall provide the owner, the inspector and the department with a completed tank installation checklist.

Note: Form ERS-6294 - Underground Storage Tank Installation Inspection Checklist required under this section is available from the Division of Environmental and Regulatory Services at P.O. Box 7837, Madison, WI, 53707-7837, or at telephone (608) 266-7874, or from the Division's web site at http://www.commerce.state.wi.us/ER/ER-BST-FM-Comm10Forms.html

SECTION 50. Comm 10.52 (1), (2) (intro.), (2) (d), and (4) are repealed.

SECTION 51. Comm 10.52 (2) (a) to (c) are renumbered Comm 10.52 (2) (b) to (d).

SECTION 52. Comm 10.52 (2) (a) is created to read:

Comm 10.52 (2) (a) *General*. Steel tanks that are upgraded with interior lining or cathodic protection shall follow the applicable national standard adopted under s. Comm 10.25 and the requirements of this section.

SECTION 53. Comm 10.52 (2) (b) 2., as renumbered, is amended to read:

Comm 10.52 (2) (b) 2. Within 10 years after lining and at least every 5 years thereafter, the lined tank is internally inspected either by manned entry or in accordance with the standard adopted in Table 10.25-2 and found to be structurally sound with the lining still performing in accordance with original design specifications.

SECTION 54. Comm 10.55 (2) is repealed and recreated to read:

Comm 10.55 (2) CATHODIC PROTECTION SYSTEMS. (a) All cathodic protection for UST systems shall comply with NACE RP 0285.

(b) All cathodic protection for UST systems shall be tested by a NACE-certified corrosion technologist or a NACE-certified corrosion technician directly supervised by a certified corrosion technologist within 6 months of installation and at least annually thereafter.

Note: Under s. Comm 10.25 (2), the department may accept cathodic protection testing by a technician certified under an equivalent national standard.

SECTION 55. Comm 10.56 Note is repealed.

SECTION 56. Comm 10.57 (1) is repealed and recreated to read:

Comm 10.57 (1) STANDARDS. Repairs to UST systems shall be made by the manufacturer's authorized representative or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

SECTION 57. Comm 10.57 (2) is repealed.

SECTION 58. Comm 10.57 (3) is renumbered Comm 10.57 (2) and Comm 10.57 (3m) is renumbered Comm 10.57 (3).

SECTION 59. Comm 10.732 (3) Note is repealed.

SECTION 60. Comm 51.25, Table 51.25-17, lines 17, 18 and 20 to 22 are amended to read:

Table 51.25-17

(Partial Table)

NFPA	National Fire Protection Association One Batterymarch Park P.O. Box 9101 Quincy Massachusetts 02269 - 9101

Standard Reference Number	Title
17. 30 - ~~1996~~ 2000	Flammable and Combustible Liquids Code.
18. 30A - ~~1996~~ 2000	~~Automotive and Marine Service Station Code.~~ Code for Motor Fuel Dispensing Facilities and Repair Garages.
20. 31 - ~~1997~~ 2001	Standard for the Installation of Oil Burning Equipment.
21. 33 - ~~1995~~ 2000	Standard for Spray Application Using Flammable or Combustible Materials.
22. 34 - ~~1995~~ 2000	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids.

END

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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.

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