



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised November 2016

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address		
h. Date of Public Notice	i. Comment Period End Date	
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Enrolled Act Numbers and Years Enacted:

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.

Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	



The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

STATEMENT OF PRICIPAL REASONS

The Department of Agriculture is proposing to amend Chapter 52 of the Department's Rules and Regulations.

Chapter 52 expands upon the standards of fuel quality and registration of antifreeze products sold as outlined in Wyo. Stat. Ann. 40-7-103. It outlines some needed definitions that are not contained in the statute. Outlines labeling of fuel dispensers and storage. Gives specific exemptions for products based on their American Society for Testing and Materials (ASTM) designation and outlines procedures for antifreeze registrations.

The Department of Agriculture is proposing to make the following amendments to Chapter 52.

1. To remove definitions and regulations that are currently in statute and are duplicated in rule. To update definitions and add definitions to help meet the intent of the statute.
2. To update rule to new and changing fuel types and regulations.
3. Add exemption to allow for the sale of 85 octane fuel.
4. To adopt federal regulations that apply to fuel sold in Wyoming including important labeling requirements to inform consumers as to the type and quality of fuel being purchased.
5. Amend antifreeze registration rules to meet current practices.
6. Formatting changes to conform rules to the Secretary of States required format.

Equal Opportunity in Employment and Services

BOARD MEMBERS

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CHAPTER 52

Wyoming Petroleum and Antifreeze Products Standards and Regulations

Section 1. Authority. Pursuant to the authority provided by Wyoming Statute § 40-7-103, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions.

(a) "Automotive Spark-Ignition Engine Fuel" means all grades and qualities of gasoline, either leaded or unleaded, and gasoline-oxygenate blends, either leaded or unleaded;

(b) "EPA" means the United States Environmental Protection Agency;

(c) "Fuel" means all petroleum products used to generate power, heat or illumination;

(d) "Gasoline-oxygenate blend" means a homogeneous liquid fuel blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. This definition includes but is not limited to the following:

(i) Gasohol

(ii) Leaded gasohol meaning any spark-ignition engine fuel containing a nominal ten volume percent (10%) anhydrous denatured fuel ethanol and ninety volume percent (90%) leaded gasoline, regardless of other name, grade or designation.

(iii) Any gasoline oxygenate blend which meets the EPA's "Substantially Similar" rule.

(iv) Any Gasoline-oxygenate blend for which there is an existing Clean Air Act waiver issued by the EPA.

(e) "Leaded" means any gasoline or gasoline-oxygenate blend which contains not less than 0.05 grams lead per U.S. gallon or contains an EPA registered gasoline additive formulated to reduce valve seat recession in engines designed to operate on leaded gasoline, which provides a lead equivalency of at least 0.10 grams lead per U.S. gallon;

(f) "This chapter" means Chapter 52.

(g) "Unleaded" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.05 grams lead per U.S. gallon and not more than 0.005 grams phosphorus per U.S. gallon.

(h) "The act" means W.S. § 40-7-101 through 40-7-111

(i) "Department" means the Wyoming Department of Agriculture.

(j) "Director" means the Director of the Wyoming Department of Agriculture

(k) “Establishment” means a place of business at a single physical location.

(l) “Antifreeze” Means any substance or preparation sold, distributed or intended for use as a cooling liquid, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid, to lower its freezing point, or to raise its boiling point.

(m) “Manufacturer” means the manufacturer, packer, seller or distributor of any antifreeze product.

Section 3. Labeling of dispensers and storage.

(a) The fill pipe box cover for any automotive fuel storage tank or vessel supplying gasoline shall be permanently, plainly, and visibly marked in such a manner as to identify what type of gasoline each storage tank delivers to a particular motor fuel dispenser. The markings may include the words, or abbreviation of the words, regular unleaded, unleaded plus, super unleaded, or a related color code scheme, such as white, blue, green and red. If the fill pipe box covers are marked by means of a color code scheme, a color code legend shall be conspicuously displayed at the place of business.

(b) The automotive fuel rating of gasoline sold or offered for sale from a motor fuel dispenser shall not be less than the automotive fuel rating posted on the dispenser.

(c) Retail dispensers of biodiesel blends containing no more than 5% biodiesel must be labeled “May contain up to 5% Biodiesel.”

(i) Retail dispensers of biodiesel blends containing more than 5% biodiesel must be labeled with the capital letter “B” followed by the value representing the volume percentage of biodiesel and ending with either “biodiesel” or “biodiesel blend.” For example:

- B10 Biodiesel Blend
- B20 Biodiesel Blend
- B100 Biodiesel

(ii) The label must be placed in the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver’s position.

(d) Each Grade dispensing ethanol blends of no less than 1% and no more than 10% must be labeled “Contains up to 10% Ethanol.”

(e) Each Grade dispensing ethanol blends of no less than 10% and no more than 15% must be labeled “Contains up to 15% Ethanol.”

(f) E85 pumps must be labeled with the capital letter “E” and the number “85” ending with the word “ethanol.”

(g) Blends higher than E15 and less than E51 can only be used in FFVs and must meet the standards set by EPA for such blends.

(h) For purposes of assessing penalties for violations of this section, each incorrect posting of an automotive fuel rating or other labeling requirement as outlined in Section 3 subsection a-g on a motor fuel dispenser shall be considered a separate violation.

Section 4. Standards of Quality.

(a) Exceptions to ASTM standards for fuel oil:

(i) ASTM grades No. 1 and No. 2 shall not have a flash point lower than one hundred fifteen degrees Fahrenheit (115@ F).

(ii) ASTM grades No. 4, No. 5 and No. 6 shall not exceed one and one-half percent (1.5%) sulfur by weight.

(b) Exceptions to ASTM standards for diesel fuel:

(i) ASTM grade No. 1 shall be a clear product free of water and sediment.

(c) Exceptions to ASTM standards for gasoline:

(i) Gasoline shall be a clear homogeneous liquid free of water and sediment;

(ii) The minimum lead content for gasoline labeled "regular" or "leaded" shall be as defined in Section 2.(e) of this chapter.

(iii) Requirements imposed by the EPA shall take precedence over ASTM standards, where applicable.

(iv) The allowable reductions in vehicle anti knock requirements for altitude are 4.5 for less than 89 Antiknock Index (AKI), and 3.0 for greater than 89 AKI. Fuel may be marketed using these reductions, but actual AKI minimum must be posted.

(d) Exceptions to ASTM standards for kerosene:

(i) Kerosene shall be free of water and suspended material.

(ii) Kerosene shall have a color no darker than No. 16 Saybolt.

(iii) Kerosene shall have a flash point not lower than one hundred fifteen degrees Fahrenheit (115@ F).

Section 5. Registration of Antifreeze Products. It is unlawful to sell, offer for sale, keep for sale or store in Wyoming any antifreeze product which has not been approved by the State Chemist and registered with the Department on forms provided by the Department.

(a) Application for registration of antifreeze products shall be made by the manufacturer of same and not by the distributor, supplier, wholesale dealer, or retail dealer.

(b) To effect registration of an antifreeze product, the manufacturer of said product must submit to the State Chemist, the following:

(i) One complete copy of the registration application prescribed by the Department, all information in the ingredients statement is confidential.

(ii) One copy of the antifreeze product label which must include:

(A) The antifreeze product name;

(B) The name and address of the manufacturer or distributor;

(C) The active ingredients.

(iii) A certified laboratory test report or certificate of analysis for each product on which registration is being requested.

(c) When the manufacturer applies for an amended registration of an antifreeze product, the registration being replaced will remain in effect for one year following the date of approval of the new application.

Section 6. Exemption for Retail Dealer and Records. No retail dealer shall be subject to the penalties of this Chapter if:

(a) The retail dealer has an invoice from the wholesale dealer or supplier that the product delivered complies with the provisions of this Chapter;

(b) The retail dealer has any other guarantee or document issued by the wholesale dealer or supplier that the product delivered complies with this Chapter;

(c) The said invoice or guarantee shows the following:

(i) Wholesale dealer or supplier name and address;

(ii) Quantity of product delivered;

(iii) Manufacturer's name and address for the product delivered;

(iv) Date the product was delivered;

(v) The true name and grade of the product delivered.

Section 7. Fuel Quality Inspection Routine Inspection Schedule. Retail locations will be inspected by the Director or his designee and will be unannounced inspections during regular business hours. Trucks, Tank Wagons, Airports, Marinas, Card Lock Facilities and any Unmanned Retail Facilities will be scheduled at least 48 hours prior to the inspection for routine inspections.

CHAPTER ~~LH~~ 52

Wyoming Petroleum and Antifreeze Products Standards and Regulations

Section 1. Authority. These rules and regulations are adopted under the authority of Sections ~~40-7-101~~ through ~~40-7-107~~, ~~40-7-109~~, and ~~40-7-110~~ of Wyoming Statutes. and ~~40-7-110~~ of Wyoming Statutes. Pursuant to the authority provided by Wyoming Statute § ~~40-7-103~~, the Wyoming Department of Agriculture hereby promulgates and adopts the following regulations.

Section 2. Definitions. Words used in the singular shall be deemed to impart the plural, and vice versa, as the case may demand. Words used in this chapter are defined in ~~40-7-102~~ of Wyoming Statutes, in addition to the following:

(a) "Automotive Spark-Ignition Engine Fuel" means all grades and qualities of gasoline, either leaded or unleaded, and gasoline-oxygenate blends, either leaded or unleaded;

~~(b)~~—"Denatured Fuel Ethanol" means ethanol meeting the provisions of ASTM D4806 Standard Specifications for Denatured Fuel Ethanol for Blending with Gasoline for use as Automotive Spark-Ignition Engine Fuel;

~~(e)~~(b) "EPA" means the United States Environmental Protection Agency;

~~(d)~~(c) "Fuel" means all petroleum products used to generate power, heat or illumination;

~~(e)~~(d) "Gasoline-oxygenate blend" means a homogeneous liquid fuel blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. This definition includes but is not limited to the following:

(i) Gasohol meaning any spark-ignition engine fuel containing a nominal ten volume percent (10%) anhydrous denatured fuel ethanol and ninety volume percent (90%) unleaded gasoline, regardless of other name, grade or designation.

(ii) Leaded gasohol meaning any spark-ignition engine fuel containing a nominal ten volume percent (10%) anhydrous denatured fuel ethanol and ninety volume percent (90%) leaded gasoline, regardless of other name, grade or designation.

(iii) Any gasoline oxygenate blend which meets the EPA's "Substantially Similar" rule.

(iv) Any Gasoline-oxygenate blend for which there is an existing Clean Air Act waiver issued by the EPA.

~~(f)~~(e) "Leaded" means any gasoline or gasoline-oxygenate blend which contains not less than 0.05 grams lead per U.S. gallon or contains an EPA registered gasoline additive formulated to reduce valve seat recession in engines designed to operate on leaded gasoline, which provides a lead equivalency of at least 0.10 grams lead per U.S. gallon;

(g) — "Oxygenate" means an oxygen containing ashless organic compound, such as an alcohol or ether, which may be used as a fuel or a fuel supplement;

— (h) — "Qualitative word or term" means any word or term used in a brand name which by definition or customary usage indicates a level of quality, classification, grade or designation;

(i) — "Regular" when used as a brand name and/or as part of a grade designation for gasoline or gasoline-oxygenate blend shall be construed to mean a leaded regular grade automotive gasoline or gasoline-oxygenate blend unless the brand name and/or grade designation also contains the word "Unleaded" or a word or term of equivalent meaning;

(f) "This chapter" means Chapter LH 52;

(g) "Unleaded" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.05 grams lead per U.S. gallon and not more than 0.005 grams phosphorus per U.S. gallon.

(h) "The act" means W.S. § 40-7-101 through 40-7-111

(i) "Department" means the Wyoming Department of Agriculture.

(j) "Director" means the Director of the Wyoming Department of Agriculture

(k) "Establishment" means a place of business at a single physical location.

(l) "Antifreeze" Means any substance or preparation sold, distributed or intended for use as a cooling liquid, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid, to lower its freezing point, or to raise its boiling point.

(m) "Manufacturer" means the manufacturer, packer, seller or distributor of any antifreeze product.

Section 3. Products to be Labeled: Labeling of dispensers and storage. All products must be sold under their true name and grades, respectively, and such names and grades must be impressed or otherwise plainly marked upon the container, can, barrel, vessel, or dispensing device in or through which the product is stored, sold, offered or exposed for sale.

(a) The fill pipe box cover for any automotive fuel storage tank or vessel supplying gasoline shall be permanently, plainly, and visibly marked in such a manner as to identify what type of gasoline each storage tank delivers to a particular motor fuel dispenser. The markings may include the words, or abbreviation of the words, regular unleaded, unleaded plus, super unleaded, or a related color code scheme, such as white, blue, green and red. If the fill pipe box covers are marked by means of a color code scheme, a color code legend shall be conspicuously displayed at the place of business.

(b) The automotive fuel rating of gasoline sold or offered for sale from a motor fuel dispenser shall not be less than the automotive fuel rating posted on the dispenser.

(c) Retail dispensers of biodiesel blends containing no more than 5% biodiesel must be labeled “May contain up to 5% Biodiesel.”

(i) Retail dispensers of biodiesel blends containing more than 5% biodiesel must be labeled with the capital letter “B” followed by the value representing the volume percentage of biodiesel and ending with either “biodiesel” or “biodiesel blend.” For example:

- B10 Biodiesel Blend
- B20 Biodiesel Blend
- B100 Biodiesel

(ii) The label must be placed in the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver’s position.

(d) Each Grade dispensing ethanol blends of no less than 1% and no more than 10% must be labeled “Contains up to 10% Ethanol.”

(e) Each Grade dispensing ethanol blends of no less than 10% and no more than 15% must be labeled “Contains up to 15% Ethanol.”

(f) E85 pumps must be labeled with the capital letter “E” and the number “85” ending with the word “ethanol.”

(g) Blends higher than E15 and less than E51 can only be used in FFVs and must meet the standards set by EPA for such blends.

(h) For purposes of assessing penalties for violations of this section, each incorrect posting of an automotive fuel rating or other labeling requirement as outlined in Section 3 subsection a-g on a motor fuel dispenser shall be considered a separate violation.

Section 4. Standards of Quality. All fuels or petroleum products sold or offered for sale in the state of Wyoming must conform with ASTM Standards and Specifications for that petroleum product, and are listed herein under ASTMs fixed designation without regard to year of issuance or revision. All revisions to these standards and specifications shall be adopted following their publication in ASTM's Annual Book of Standards and upon approval of the Board. The standards and specifications and the exceptions to ASTM standards and specifications are as follows:

~~—(a) Fuel Oil—ASTM fixed designation D396:~~

~~(i)(a)~~ Exceptions to ASTM standards for fuel oil:

~~(A)(i)~~ ASTM grades No. 1 and No. 2 shall not have a flash point lower than one hundred fifteen degrees Fahrenheit (115@ F).

~~(B)(ii)~~ ASTM grades No. 4, No. 5 and No. 6 shall not exceed one and one-half percent (1.5%) sulfur by weight.

~~—(b) Standards for Diesel Fuel - ASTM fixed designation D975:~~

~~(i)(b)~~ Exceptions to ASTM standards for diesel fuel:

~~(A)(i)~~ ASTM grade No. 1 shall be a clear product free of water and sediment.

~~—(c) Standards for Automotive Spark-Ignition Engine Fuel - ASTM fixed designation D4814:~~

~~(i)(c)~~ Exceptions to ASTM standards for gasoline:

~~(A)(i)~~ Gasoline shall be a clear homogeneous liquid free of water and sediment;

~~(B)(ii)~~ The minimum lead content for gasoline labeled "regular" or "leaded" shall be as defined in Section 2.~~(f)(e)~~ of this chapter.

~~(C)(iii)~~ Requirements imposed by the EPA shall take precedence over ASTM standards, where applicable.

~~(iv)~~ The allowable reductions in vehicle anti knock requirements for altitude are 4.5 for less than 89 Antiknock Index (AKI), and 3.0 for greater than 89 AKI. Fuel may be marketed using these reductions, but actual AKI minimum must be posted.

~~—(d) Standards for Kerosine - ASTM fixed designation D3699:~~

~~(i)(d)~~ Exceptions to ASTM standards for ~~kerosine~~ kerosene:

~~(A)(i)~~ ~~Kerosine~~ Kerosene shall be free of water and suspended material.

~~(B)(ii)~~ ~~Kerosine~~ Kerosene shall have a color no darker than No. 16 Saybolt.

~~(C)(iii)~~ ~~Kerosine~~ Kerosene shall have a flash point not lower than one hundred fifteen degrees Fahrenheit (115@ F).

~~—(e) Standards for LP Gas - ASTM fixed designation D1835:~~

~~(f) All other petroleum products - For those petroleum products which are not specifically referred to in this chapter, ASTM Standards and Specifications shall be adopted without reference to the ASTM fixed designation for such products.~~

Section 5. Registration of Antifreeze Products. It is unlawful to sell, offer for sale, keep for sale or store in Wyoming any antifreeze product which has not been approved by the State Chemist and registered with the Department on forms provided by the Department.

~~(a) Registration of antifreeze products is permanent and application for re-registration need not be made unless:~~

~~—(i) The product formulation is changed;~~

_____ (ii) ~~The package label is changed.~~

~~(b)~~(a) Application for registration of antifreeze products shall be made by the manufacturer of same and not by the distributor, supplier, wholesale dealer, or retail dealer.

~~(e)~~(b) To effect registration of an antifreeze product, the manufacturer of said product must submit to the State Chemist, the following:

(i) One complete copy of the registration application prescribed by the Department, all information in the ingredients statement is confidential.

(ii) One copy of the antifreeze product label which must include:

(A) The antifreeze product name;

(B) The name and address of the manufacturer or distributor;

(C) The active ingredients.

(iii) ~~A copy of production lot codes used if the name and address of the manufacturer is not on the label.~~ A certified laboratory test report or certificate of analysis for each product on which registration is being requested.

~~(d)~~(c) When the manufacturer applies for an amended registration of an antifreeze product, the registration being replaced will remain in effect for one year following the date of approval of the new application.

Section 6. Exemption for Retail Dealer and Records. No retail dealer shall be subject to the penalties of this Chapter if:

(a) The retail dealer has an invoice from the wholesale dealer or supplier that the product delivered complies with the provisions of this Chapter;

(b) The retail dealer has any other guarantee or document issued by the wholesale dealer or supplier that the product delivered complies with this Chapter;

(c) The said invoice or guarantee shows the following:

(i) Wholesale dealer or supplier name and address;

(ii) Quantity of product delivered;

(iii) Manufacturer's name and address for the product delivered;

(iv) Date the product was delivered;

(v) The true name and grade of the product delivered.

Section 7. Fuel Quality Inspection Routine Inspection Schedule. Retail locations will be inspected by the Director or his designee and will be unannounced inspections during regular

business hours. Trucks, Tank Wagons, Airports, Marinas, Card Lock Facilities and any Unmanned Retail Facilities will be scheduled at least 48 hours prior to the inspection for routine inspections.