



State of Wisconsin  
Governor Tony Evers

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**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

**DATE:** January 29, 2026

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Randy Romanski, Secretary

**SUBJECT:** Wisconsin Admin. Code ch. ATPC 92, Weights and Measures

**PRESENTED BY:** David Woldseth, Policy Analyst, Division of Trade and Consumer Protection  
Joseph Smith, Director, Bureau of Weights and Measures

**REQUESTED ACTION:**

At the Board meeting on January 29, 2026, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to approve a proposed rule in final draft form relating to Wis. Admin. Code ch. ATPC 92, Weights and Measures.

**EXECUTIVE SUMMARY:**

- **Stage of the rules process:** The proposed rule is in final draft form. DATCP respectfully asks the Board to approve the proposed rule.
- **Overall purpose of rulemaking:** To regulate commercial electric vehicle supply equipment (EVSE) that requires consumers to pay for charging their vehicles based on the kilowatt hours provided.
- **Main points:**
  - Incorporates Section 3.40. Electric Vehicle Fueling Systems of *NIST Handbook 44* (2024 edition) into the rule by repealing existing language specifically excluding Section 3.40. from the rule's definition of the term *NIST Handbook 44*.
  - Amends the definition of *NIST Handbook 44* and creates a definition for Electric Vehicle Supply Equipment (EVSE).
  - Creates Subchapter VIII to govern EVSE.
- **When the Board last saw this:** The Board previously saw this rule at its meeting on May 8, 2025. During that meeting, the Board granted permission to send the hearing draft rule to the Clearinghouse and hold public hearings. DATCP then held public hearings on June 24, 26, and 28, 2025, as well as July 2, 2025.
- **The next step in the process:** If the Board approves it, DATCP will transmit the proposed rule in final draft form to the Governor for approval. If the Governor approves, DATCP will transmit the final rule to the Legislative Reference Bureau for publication.

**RULES PROCESS:**

DATCP published the statement of scope in the *Wisconsin Administrative Register* on June 17, 2024, and filed a copy with the Department of Administration. DATCP held a preliminary public hearing on the statement of scope on July 31, 2024. At its meeting on September 19, 2024, the DATCP Board approved the statement of scope. At its meeting on May 8, 2025, the DATCP Board approved the hearing notice for the draft rule package. DATCP held public hearings on June 24, 26, and 28, 2025, as well as July 2, 2025.

## **RULE SUMMARY:**

The department's Bureau of Weights and Measures is responsible for monitoring the accuracy of gas pumps, price scanners, scales, package weights, and other commercial weights and measures devices statewide to ensure a fair and balanced marketplace, as well as ensuring that consumers receive that for which they pay. Wisconsin Admin. Code ch. ATPC 92 helps to achieve that by, unless explicitly provided otherwise, adopting the National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices*.

This proposed rule makes three revisions to Wis. Admin. Code ch. 92:

1. Changes the definition of the term "*NIST Handbook 44*" to include Section 3.40. Electric Vehicle Fueling Systems of *NIST Handbook 44* (2024 edition), doing so by repealing the rule's existing language specifically excluding Section 3.40. from the definition.
2. Creates a definition for the term "Electric Vehicle Supply Equipment."
3. Creates Subchapter VIII to govern Electric Vehicle Supply Equipment.

## **PUBLIC COMMENTS AND EDITS:**

Three individuals spoke using the virtual hearing option at the hearing held in Madison. They requested delayed implementation of the proposed rule. No one attended any of the three solely in-person hearings.

After the scope statement was approved but prior to scheduling the public hearing dates, the department received public comments from Electrify America, LLC, Tesla, Inc., and ChargePoint, Inc. The department met with those entities prior to the first public hearing and during the comment period. Additional written comments were received from the same stakeholders during the public comment period. DATCP staff also communicated with those stakeholders during the ensuing revision process, which involved honing the proposed rule presented today.

Stakeholders commented that some states adopting Section 3.40. of *NIST Handbook 44* provided extended periods to comply, doing so because Section 3.40. standards were not in wide practice prior to 2023. In response, the department made modifications to the proposed rule for DC EVCS accuracy requirements.

The department accepted both of the Clearinghouse's suggested formatting changes. The Clearinghouse also suggested that the rule should not define the term "Electric Vehicle Supply Equipment" because the term was not used elsewhere in the rule. However, after public comments led the department to create a subchapter on EVSE to address testing accuracy for existing DC equipment and Federal Trade Commission labeling requirements, the department decided the definition is needed.

**THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S  
PROPOSED ORDER TO ADOPT PERMANENT RULES**

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PROPOSED ORDER

The Wisconsin department of agriculture, trade and consumer protection proposes an order *to amend* ATCP 92.01 (10h) and *to create* ATCP 92.01 (5m) and ATCP 92, Subchapter VIII *relating to* weights and measures and affecting small business.

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**Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection**

*Statutes Interpreted:*

Wis. Stat. ss. 98.01 (7), 98.03 (2), 98.07 (4), and 196.01 (5) (b) 8.

*Statutory Authority:*

Wis. Stat. ss. 93.07 (1); 98.03 (2); and 98.07 (4).

*Explanation of Agency Authority*

Wisconsin Stat. s. 98.03 (2) states, "The department may issue rules governing the construction, installation, and use of commercial weights and measures and prescribing tolerances therefor. The specifications, tolerances, and regulations for commercial weighing and measuring devices issued by the national institute of standards and technology shall apply in this state except as modified by such rules or by statute."

Wisconsin Stat. s. 98.07 (4) provides, "In order to prevent consumer deception, the department shall prescribe, by rule, standards for determining and declaring weight, measure or count, including the conspicuousness of quantity declarations."

The Wisconsin Department of Agriculture, Trade and Consumer Protection (department) currently regulates electric vehicle (EV) charging stations as timing devices per Wis. Admin. Code ch. ATCP 92 and adopted standards in *NIST Handbook 44*. A change to the statutory definition of the term "public utility" means the department must expand its regulation of such devices to include the sale of electricity by kilowatt-hours.

*Related Statutes and Rules*

Wisconsin law on weights and measures is set forth in Wis. Stat. ch. 98 and in Wis. Admin. Code chs. ATCP 90, 91, and 92. With respect to weighing and measuring devices, Wis. Admin. Code s. ATCP 92.02 (1) reads, "Except as provided in this chapter, weighing and measuring devices shall comply with applicable specifications, tolerances, and other technical requirements set forth in *NIST Handbook 44*." Therefore, the Wis. Admin. Code s. ATCP 92.01 (10h) definition of the term "*NIST Handbook 44*" is critical.

The Wisconsin Department of Revenue collects an excise tax of 3 cents per kilowatt-hour (kWh) imposed on electricity delivered from an electric vehicle charging station into the battery or other energy storage device of an electric vehicle. This tax excludes chargers in residential homes.

### *Plain Language Analysis*

The department proposes to amend Wis. Admin. Code ch. ATPC 92 to include regulatory standards for commercial electric vehicle charging stations as weights and measures devices. Until recently, Wisconsin statutes did not permit the department to adopt and enforce commercial weights and measures device regulations on the sale of electricity by kWh due to the devices being considered a public utility under state law. 2023 Wisconsin Act 121, s. 9 created Wis. Stat. s. 196.01 (5) (b) 8, effective March 22, 2024. Under Wis. Stat. s. 196.01 (5) (b) 8., the term "public utility" does not include a person who supplies electricity through electric vehicle charging stations to charge electric vehicles and charges a fee based on the amount of kWh of electricity consumed, provided that is the only electricity the person sells to the public and the person only sells electricity received as a retail customer of a public utility or retail electric cooperative. As a result, meters for measuring the amount of electricity consumed at such devices now fall within the Wis. Stat. s. 98.01 (7) definition of "weights and measures" and are subject to Wis. Stat. ch. 98 and the rules promulgated thereunder.

The department's Bureau of Weights and Measures is responsible for monitoring the accuracy of gas pumps, price scanners, scales, package weights, and other commercial weights and measures devices statewide to ensure a fair and balanced marketplace, as well as ensuring that consumers receive that for which they pay. Wisconsin Admin. Code ch. ATPC 92 helps to achieve that by, unless explicitly provided otherwise, adopting the National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices*.

This rule makes three significant revisions to Wis. Admin. Code ch. 92:

- Incorporates Section 3.40. Electric Vehicle Fueling Systems of *NIST Handbook 44* (2024 edition) into rule by repealing the previous language that specifically excluded Section 3.40
- Changes the definition of *NIST Handbook 44* and creates a definition of Electrical Vehicle Supply Equipment (EVSE)
- Creates Subchapter VIII to govern Electric Vehicle Supply Equipment

#### *Section 3.40.*

Incorporating Section 3.40. Electric Vehicle Fueling Systems of *NIST Handbook 44* (2024 edition) provides a nationally recognized framework for electric vehicle supply equipment (EVSE) maintenance, operation, and regulation within the state of Wisconsin.

*NIST Handbook 44* first included Section 3.40. in its 2015 edition as a "tentative code." These tentative requirements for electric vehicle chargers have been known for a decade, and businesses in Wisconsin actively participated in the drafting of *NIST Handbook 44* Section 3.40. per documents published by the National Council on Weights and Measures (NCWM). In 2023, NIST published Section 3.40. as fully adopted in *NIST Handbook 44*. The department did not include *NIST Handbook 44* (2024 edition) Section 3.40. in Clearinghouse Rule 23-057, which promulgated July 1, 2025. The department thought it should provide affected businesses with additional time to prepare for the requirements of Section 3.40. regarding DC EVSE.

Wisconsin Admin. Code ch. ATPC 92, as affected by Clearinghouse Rule 23-057, adopted *NIST Handbook 44* (2024 edition) except for Section 3.40. Electric Vehicle Fueling Systems. This rulemaking effort focuses

on adoption of standards and regulatory framework for electric vehicle charging infrastructure and looks now to adopt *NIST Handbook 44* (2024 edition) in whole.

### *Definitions*

This rule changes the existing definition of *NIST Handbook 44* in Wis. Admin. Code s. ATCP 92.01 (10h) to:

**(10h)** “*NIST Handbook 44*” means *NIST Handbook 44*, 2024 edition, published by the National Institute of Standards and Technology, United States department of commerce.

Thus, the amended definition of “*NIST Handbook 44*” includes Section 3.40. Electric Vehicle Fueling Systems in the 2024 edition.

The rule also creates a definition of Electric Vehicle Supply Equipment for use in a newly created subchapter VIII.

### *Subchapter VIII*

While the department proposes *NIST Handbook 44* (2024 edition) Section 3.40. should be used to regulate EVSE in Wisconsin, it recognizes the need for exemptions and delays so industry may prepare for those requirements which have been updated in the *NIST Handbook 44* (2025 edition) and incorporates labeling requirements established by the Federal Trade Commission.

*NIST Handbook 44* Section 3.40. standards have been known since 2014 but have not been in wide practice prior to 2023. In July 2022, the National Council on Weights and Measures changed the classification of Section 3.40. from “tentative” to “permanent” effective January 1, 2023. After hearing from industry, the department decided additional accommodation should be made for tolerance testing of DC systems. It creates them in the new Subchapter VIII.

The department made draft rule modifications to balance full adoption of Section 3.40. with Wis. Stat. s. 98.03, which provides NIST standards apply in Wisconsin unless modified by statute or rule. NIST administers the National Type Evaluation Program (NTEP), ensuring weights and measures devices meet NIST standards in terms of specifications and tolerances. Electric vehicle charging devices that were put in service before 2023 might not have NTEP approval and could have larger variances in electricity delivery to consumers than NTEP-approved electric vehicle charging devices. The department determined that a later implementation date for DC EVCS would be appropriate for businesses to adapt to the new electric vehicle charging device regulations in *NIST Handbook 44*, while maintaining consumer protection in the state.

### *Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations*

2023 Wisconsin Act 121, s. 9 created Wis. Stat. s. 196.01 (5) (b) 8. effective March 22, 2024. Under the newly created Wis. Stat. s. 196.01 (5) (b) 8., the term “public utility” does not include a person who supplies electricity through the person's EVSE to fuel electric vehicles and imposes a fee that is based on the amount of kilowatt-hours of electricity consumed, provided that is the only electricity the person sells to the public and the person only sells electricity received as a retail customer of a public utility or retail electric cooperative. Because a person who operates any such EVSE is not a “public utility” per Wis. Stat. s. 196.01 (5) (b) 8., the meter for measuring the amount of kilowatt-hours consumed by a purchaser at such a charging station now falls within the Wis. Stat. s. 98.01 (7) definition of “weights and measures” devices subject to Wis. Stat. ch. 98. Therefore, under Wis. Stat. s. 98.07 (4), to prevent consumer deception, the department

must prescribe, by rule, standards for determining and declaring the measure of kWh of electricity consumed at such EVSE, including the conspicuousness of quantity declarations.

The Federal Trade Commission also has labeling requirements for alternative fuels and alternative fueled vehicles in Title 16, Chapter I, Subchapter C, Part 309 of the Code of Federal Regulations.

***Summary of Comments Received during Preliminary Comment Period  
and at Public Hearing on Statement of Scope***

The department received one comment during the preliminary comment period on the Statement of Scope. The comment pertained to the rule itself and not to the Statement of Scope.

***Comparison with Rules in Adjacent States***

**Illinois**

Illinois adopts the most recent version of *NIST Handbook 44* in Title 8, Chapter 1, Subchapter p, Part 600, Section 600.330 National Institute of Standards and Technology Handbook 44.

**Iowa**

Iowa's Administrative Code Chapter 85: Weights and Measures, 21.85.50 Electric vehicle charging stations was effective January 17, 2024, and prescribes EVSE testing procedures for the state. In this administrative code, Iowa adopts an older version of *NIST Handbook 44* but still adheres to the EVSE testing procedures within the Handbook. This is also upheld in Iowa Administrative Code, s. 452A.41.

**Michigan**

Michigan incorporates, by reference, *NIST Handbook 44* (2023 edition) which includes similar EVSE requirements to the 2025 edition in the Weights and Measures Act, Public Act 283.

**Minnesota**

Minnesota Administrative Rule s. 7601.1000 incorporates *NIST Handbook 44* (2019 edition). This edition includes EVSE requirements as tentative and not as a required part of the handbook.

***Summary of Factual Data and Analytical Methodologies***

To develop this rule, the department reviewed the most current editions of *NIST Handbook* standards and verified accuracy. This rule incorporates Section 3.40. Electric Vehicle Fueling Systems of the *NIST Handbook 44* (2024 edition) and includes electric vehicle charging stations as weights and measures devices. If the department does not update Wis. Admin Code ch. 92 to incorporate the relevant provisions of *NIST Handbook 44*, the Weights and Measures program will not have standards specified to regulate commercial EV fueling systems fully and fairly.

***Summary of Comments Received during Public Hearings and Comment Period***

The department held four public hearings on the hearing draft rule:

- June 24, 2025—Madison, in-person at the Prairie Oaks State Office Building and virtually

- June 26, 2025—Howard, DNR Building
- June 30, 2025—Waukesha, Lee Sherman Dreyfus Office Building
- July 2, 2025—Eau Claire, 1300 W. Clairemont Street

Public comments were received until July 23 or three weeks after the final hearing.

Three individuals spoke using the virtual hearing option at the hearing held in Madison and requested a delayed implementation of provisions that would be adopted with the removal of the exemption for Section 3.40. in *NIST Handbook 44* (2024 edition). No one attended any of the three solely in-person hearings.

The department received public comments from Electrify America, LLC, Tesla, Inc., and ChargePoint, Inc. after the scope statement was approved but prior to scheduling the hearing dates. After the hearing schedule was announced, the department met with those entities prior to the first hearing and during the comment period. Additional written comments were received from the same stakeholders during the public comment period.

Industry requested two changes to the rule:

- Add additional language to Wis. Admin. Code s. ATPC 92.02 (3) to provide an exemption for existing EV chargers.
- Amend Wis. Admin. Code s. ATPC 92.02 (5m) to exclude non-publicly available EVSEs from the definition of EVSE.

Stakeholder comments indicated that some states that adopt *NIST Handbook 44* have given longer periods to comply, given that *NIST Handbook 44* Section 3.40. standards were known since 2014 but not in wide practice prior to 2023. In response, the department made draft rule modifications to DC EVCS accuracy requirements to balance full adoption with the statutory requirement under Wis. Stat. s. 98.03 to adopt NIST standards in subchapter VIII.

On November 24, 2025, DATCP provided its revisions to the commenters for review, and reply comments were received on December 3 and 9, 2025. After considering those replies, DATCP remained confident that Wis. Admin. Code § ATPC 92.02 (3) (c) permits DATCP to grant conditional approval of non-NTEP approved devices on a device-by-device basis without additional code changes. Under that rule, if adequate written documentation is provided, DATCP may conditionally approve commercially used EVSE in Wisconsin that does not have NTEP approval. The department believes this addresses the concerns of commenters.

The department accepted both the suggested formatting changes from the Clearinghouse. The Clearinghouse suggested that the rule should not define “Electric Vehicle Supply Equipment” or “EVSE” since the term was not used elsewhere in the rule. After the public comments led the department to create subchapter VIII on EVSE to address testing accuracy and Federal Trade Commission labeling requirements, the term is now used in the rule, so the department decided the definition is needed.

### ***Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis***

The rule will have minimal impact on owners, operators, manufacturers, installers, testers, and those who service commercial electric vehicle charging stations as they would be subject to regulations that incorporate the new standard. The new rules also establish a labeling requirement. If national standards are incorporated in state rules regulating commercial electric vehicle charging stations in Wisconsin, drivers of

electric vehicles could experience greater confidence when using commercial electric vehicle charging stations.

***Fiscal Estimate and Economic Impact Analysis***

The Fiscal Estimate and Economic Impact Analysis is attached.

***Effect on Small Business***

The department's Regulatory Review Coordinator may be contacted by:

Email at [Bradford.Steinel@wisconsin.gov](mailto:Bradford.Steinel@wisconsin.gov)

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

***Department Contact Person***

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P.O. Box 8911  
Madison, WI 53708-8911  
Telephone (608) 224-5164  
E-Mail: [DavidA.Woldseth@wisconsin.gov](mailto:DavidA.Woldseth@wisconsin.gov)

***Place Where Comments are to Be Submitted and Deadline for Submission:***

Comments must be received on or before July 23, 2025, three weeks after the last hearing, to be included in the record of rulemaking proceedings. Submit comments:

**By mail to:**

David A. Woldseth  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911  
Telephone (608) 224-5164  
E-Mail: [DavidA.Woldseth@wisconsin.gov](mailto:DavidA.Woldseth@wisconsin.gov)

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**RULE TEXT**

- 1 **SECTION 1.** ATP 92.01 (5m) is created to read:
- 2 **(5m)** "Electric Vehicle Supply Equipment" or "EVSE" means a commercial device or system designed and
- 3 used to transfer electrical energy to an electric vehicle, either as a charge transferred via physical or wireless
- 4 connection, by loading a fully charged battery, or by other means.



## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> 12/09/2025								
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> ATCP 92									
<b>4. Subject</b> Weights and Measures RE: Commercial Electric Vehicle Supply Equipment									
<b>5. Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>6. Chapter 20, Stats. Appropriations Affected</b>								
<b>7. Fiscal Effect of Implementing the Rule</b> <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs						
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget							
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input checked="" type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></td></tr></table>		<input type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>			
<input type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors								
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers								
<input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>									
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0.00									
<b>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
<b>11. Policy Problem Addressed by the Rule</b> Regulation of Electric Vehicle Supply Equipment (EVSE)									

Section 9 of 2023 Wisconsin Act 121 created Wis. Stat. s. 196.01 (5) (b) 8. effective March 22, 2024. Under the newly created Wis. Stat. s. 196.01 (5) (b) 8., the term "public utility" does not include a person who supplies electricity through the person's EVSE to fuel electric vehicles and imposes a fee that is based on the amount of kilowatt-hours of electricity consumed, provided that it is the only electricity the person sells to the public and the person only sells electricity received as a retail customer of a public utility or retail electric cooperative. Because a person who operates any such EVSE is not a "public utility" per Wis. Stat. s. 196.01 (5) (b) 8., the meter for measuring the amount of kilowatt-hours consumed by a purchaser at such a charging station now falls within the Wis. Stat. s. 98.01 (7) definition of "weights and measures" devices subject to Wis. Stat. ch. 98. Therefore, under Wis. Stat. s. 98.07 (4), in order to prevent consumer deception, the Wisconsin department of agriculture, trade and consumer protection (department) must prescribe, by rule, standards for determining and declaring the measure of kilowatt-hours (kWh) of electricity consumed at such EVSE, including the conspicuousness of quantity declarations.

**12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.**

The rule would impact owners, operators, manufacturers, installers, testers, and those who service commercial electric vehicle charging stations as they would be subject to regulations that incorporate the new standard. Individuals who do not currently have a license related to weights and measures may be required to obtain such a license. Weights and Measures installers, service companies, and their employees who engage in activities governed by rules adopted under Wis. Stat. s. 98.18 (2) may be affected.

The department maintains a list of interested stakeholders in updates to Wis. Admin. Code ch. 92 as it relates to commercial EVSE. These stakeholders are notified at steps throughout the process to date. The list includes stakeholders

## ADMINISTRATIVE RULES

### Fiscal Estimate & Economic Impact Analysis

from industries such as utilities, EVSE supply companies, currently regulated communities, and local governments including at the state, city, and county level.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

NA

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14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

NIST Handbook 44 is available at no cost on the NIST website. Businesses subject to the law will need to comply with nationally recognized standards in NIST Handbook 44, Section 3.40. Current fees applicable under Wis. Stat. ch. 98 would also be imposed upon commercial EVSE and would be similar to those seen by gasoline dispensers. As with other regulated weights and measures devices, EVSE that violate Wis. Stat. ch. 98 and Wis. Admin. Code ch. ATPC 92 may incur a reinspection fee to the violating business.

The rule would impact owners, operators, manufacturers, installers, testers, and those who service commercial electric vehicle charging stations as they would be subject to regulations that incorporate the new standard. The new rules also establish a labeling requirement. Individuals who do not currently have a license related to weights and measures may be required to obtain such a license. Weights and Measures installers, service companies, and their employees who engage in activities governed by rules adopted under Wis. Stat. § 98.18 (2) may be affected.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits of implementing the rule include utilizing nationally recognized standards to regulate commercial EVSE infrastructure in Wisconsin. The alternative would be to have no standards in place to regulate commercial EVSE.

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16. Long Range Implications of Implementing the Rule

Regulated commercial electric vehicle charging infrastructure in Wisconsin consistent with nationally recognized standards. This may positively impact consumer confidence similar to other regulated fuels.

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17. Compare With Approaches Being Used by Federal Government

The standard being proposed is the National Institute of Standards and Technology (NIST) which is a section of the U.S. Department of Commerce.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

Illinois adopts the most recent version of NIST Handbook 44 in Title 8, Chapter 1, Subchapter p, Part 600, Section 600.330 National Institute of Standards and Technology Handbook 44.

Iowa

Iowa's Administrative Code Chapter 85: Weights and Measures, 21.85.50 Electric vehicle charging stations was effective January 17, 2024, and prescribes EVSE testing procedures for the state. In this administrative code, Iowa adopts an older version of NIST Handbook 44 but still adheres to the EVSE testing procedures within the handbook. This is also upheld in Iowa Administrative Code, s. 452A.41.

Michigan

Michigan incorporates, by reference, NIST Handbook 44 (2023 edition) which includes similar EVSE requirements to the 2025 edition in the Weights and Measures Act, Public Act 283.

Minnesota

Minnesota Administrative Rule s.7601.1000 incorporates NIST Handbook 44 (2019 edition). This edition includes EVSE requirements as optional and not as a required part of the handbook.

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19. Contact Name

20. Contact Phone Number

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

David A. Woldseth

(608) 224-5164

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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements  
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting  
☐ Consolidation or Simplification of Reporting Requirements  
☐ Establishment of performance standards in lieu of Design or Operational Standards  
☐ Exemption of Small Businesses from some or all requirements  
☐ Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes   ☐ No

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**Wisconsin Department of Agriculture, Trade and Consumer Protection**

**Final Regulatory Flexibility Analysis**

<b><i>Rule Subject:</i></b>	<b>Weights and Measures</b>
<b><i>Adm. Code Reference:</i></b>	<b>ATCP 92</b>
<b><i>Rules Clearinghouse #:</i></b>	<b>CR 25-034</b>
<b><i>DATCP Docket #:</i></b>	<b>24-R-05</b>

***Rule Summary***

The department proposes to amend Wis. Admin. Code ch. ATCP 92 to include regulatory standards for electric vehicle charging stations that charge a fee based on the amount of kilowatt-hours (kWh) of electricity consumed.

***Small Business Affected***

The rule would impact owners, operators, manufacturers, installers, testers, and those who service commercial electric vehicle charging stations as they would be subject to regulations that incorporate the new standard. The new rules also establish a labeling requirement. Individuals who do not currently have a license related to weights and measures may be required to obtain such a license. Weights and Measures installers, service companies, and their employees who engage in activities governed by rules adopted under Wis. Stat. § 98.18 (2) may be affected.

If national standards are incorporated in state rules regulating commercial electric vehicle charging stations in Wisconsin, drivers of electric vehicles could experience greater confidence when using commercial electric vehicle charging stations.

***Recordkeeping requirements***

There are no changes to recordkeeping requirements in the rule itself, and the standards do not change recordkeeping requirements.

***Accommodation for Small Business***

Some of the businesses affected by this rule may be small businesses, including owners/operators of commercial electric vehicle charging stations or service or technician companies. However, given the subject matter, there are little to no accommodations or special exceptions that can be made for small businesses.

### ***Conclusion***

This rule will have minimal impact on affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. Because this rule will not have a significant adverse effect on “small business,” it is not subject to the delayed “small business” effective date provided in Wis. Stat. § 227.22 (2) (e).

Dated this 6<sup>th</sup> day of January, 2026.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By: Michelle Reinen

Michelle Reinen, Administrator  
Division of Trade and Consumer Protection



State of Wisconsin  
Governor Tony Evers

**Department of Agriculture, Trade and Consumer Protection**  
Secretary Randy Romanski

Sent by electronic mail to [SutherlinL@doj.state.wi.us](mailto:SutherlinL@doj.state.wi.us)

December 5, 2025

Ms. Lara Sutherlin  
Administrator, Division of Legal Services  
Wisconsin Department of Justice  
17 West Main Street  
PO Box 7857  
Madison, WI 53707-7857

**RE: Request that the Attorney General consent to Wis. Admin. Code ch. ATCP 92 incorporating by reference standards established by NIST**

Dear Ms. Sutherlin:

Pursuant to Wis. Stat. § 227.21 (2), the Department of Agriculture, Trade and Consumer Protection (DATCP) requests the Attorney General's consent to incorporate technical standards by reference in proposed modifications to Wis. Admin. Code ch. ATCP 92, which concerns weights and measures. Promulgation of this rule is authorized by Wis. Stats. §§ 98.03 (2), 98.07 (4), and 98.18 (2).

The DATCP Board will be asked to approve the enclosed proposed rule at its January 29, 2026 meeting. In the event that approval is obtained, DATCP will then submit the proposed rule to the Governor for approval under Wis. Stat. § 227.185. If the Governor approves the proposed rule, DATCP will then submit it to the Legislature for review under Wis. Stat. § 227.19 (2).

The current version of Wis. Admin. Code ch. ATCP 92 incorporates by reference the 2024 edition of *NIST Handbook 44*, except for Section 3.40. Electric Vehicle Fueling Systems. *See* Wis. Admin. Code § ATCP 92.01 (10h). The Attorney General consented to that incorporation by reference on April 17, 2024. In the proposed modifications to Wis. Admin. Code ch. ATCP 92, DATCP would like to incorporate by reference the 2024 edition of *NIST Handbook 44* in its entirety — including Section 3.40. Electric Vehicle Fueling Systems — and therefore asks for the consent of the Attorney General to do so.

The referenced standard is a technical standard of limited public interest. The publishing organization is the National Institute of Standards and Technology (NIST), which is part of the United States Department of Commerce and is of recognized national standing. The standard to be adopted is generally accepted by industry and is readily available through purchase, arrangement with the publishers, and online. Incorporation by reference will avoid unnecessary repetition of those readily available technical standards in the administrative rules and thereby eliminate unnecessary expense for the state in reproducing the most recent versions of the Handbook.

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December 5, 2025  
Ms. Lara Sutherlin  
Re: ATCP 92  
Page 2 of 2

With this letter, DATCP provides the proposed rule for CR 25-034 and a copy of the proposed standard to be incorporated by reference. Under Wis. Stat. § 227.21 (2) (b), standards incorporated by reference in a rule must be filed with the Legislative Reference Bureau (LRB). The 2024 edition of *NIST Handbook 44* is already on file with LRB.

When you have completed your review, if the Attorney General consents to the incorporation by reference of the identified technical standard, please send a letter confirming your consent, so that we may include that letter in our submission materials for the final rule.

Sincerely,



Catherine Giljohann  
Chief Legal Counsel  
Wisconsin Department of Agriculture, Trade and Consumer Protection  
(608) 224-5022

Cc: Michael Duchek, Legislative Reference Bureau ([michael.duchek@legis.wisconsin.gov](mailto:michael.duchek@legis.wisconsin.gov))

Enc: *NIST Handbook 44 (2024 Edition)*  
CR 25-034 (in final draft rule form)