

## 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> August 24, 2021
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> ATCP 94	
<b>4. Subject</b> Petroleum and Other Liquid Fuel Products	
<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> <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> <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 checked="" 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> \$	
<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> With the enactment of 2013 Wisconsin Act 20 (the biennial budget bill), the state of Wisconsin transferred the Petroleum and Other Liquid Fuel Products program, also known as the Petroleum Inspection Program, from the Department of Safety and Professional Services (DSPS) to DATCP. Act 20 also authorized the transfer of existing administrative rules relating to this program with the approval of the Secretary of the Department of Administration. The Legislative Reference Bureau used its authority to renumber the affected rule from Chapter SPS 348 to Chapter ATCP 94.  Other aspects of the transfer must be addressed through administrative rulemaking. DATCP rule revisions make technical and organizational changes to portions of ch. ATCP 94. These changes integrate the petroleum inspection program into DATCP's other regulatory programs and provide clarity to regulated industries.  The amendments to ATCP 94 also clarify Wisconsin law on E15 and address ongoing producer concerns about base versus blend.	
<b>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.</b> None at this time. The fiscal estimate and flexibility analyses will be posted with the draft rule, and the concerns of the regulated community will be identified and addressed more thoroughly.	
<b>13. Identify the Local Governmental Units that Participated in the Development of this EIA.</b> None involved. Because the program is a state responsibility, DATCP does not expect local governments to have any additional expenses.	

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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)

This rule will impact businesses that sell or distribute petroleum and other liquid fuel products, either at wholesale or retail. Although these businesses are already regulated under the existing rule, they might need to make minor changes to comply with updated requirements, such as a reduction in the water levels permitted in tanks containing certain fuels.

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

#### *Benefits*

Eliminating outdated standards that conflict with national and federal standards benefits producers, wholesalers, and retailers of petroleum and other liquid fuel products by reducing confusion and the overall burden of compliance. Those businesses also benefit from updates in the rule that clarify definitions and processes, including fee authority and the process by which to request a variance. In addition, updates allow for the sale of E15 as gasoline.

This rule benefits manufacturers and sellers of vehicles and small engines that should never use E15 by adopting and enforcing EPA requirements that aim to prevent mis-fueling with E15.

This rule benefits consumers of petroleum and other liquid fuel products by ensuring that the Wisconsin Administrative Code is consistent with national standards. Consumers also benefit from the option to choose E15 for use in appropriate vehicles and from regulations protecting vehicles and small engines that should never use E15.

#### *Alternatives*

Do nothing. If the department does not implement the numerous technical updates, the rule will be more difficult to understand than necessary, and it will remain inconsistent with the latest national standards. In addition, if the department does not implement the rule, businesses that wish to sell or dispense E15 as gasoline (rather than as alternative fuel) will be unable to do so easily. Finally, numerous changes have been made in state statute concerning fuel quality. Without adoption of this rule, ATCP 94 will continue to be outdated and inconsistent with statute.

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16. Long Range Implications of Implementing the Rule

There are no expected long-term implications to implementing this rule.

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17. Compare With Approaches Being Used by Federal Government

The federal Clean Air Act (CAA) authorizes the Environmental Protection Agency (EPA) to establish emissions standards for motor vehicles to address air pollution that may reasonably be anticipated to endanger public health or welfare. EPA also has authority to establish fuel controls to address such air pollution. 40 CFR Parts 79, 80, 85, and 86 establish fuel quality and emissions standards by rule, which are enforced by EPA. These rules incorporate by reference ASTM International standards and test methods.

EPA regulates the vapor pressure of gasoline sold at retail stations during the summer ozone season. The EPA does so to reduce evaporative emissions from gasoline that contribute to ground-level ozone and to diminish the effects of ozone-related health problems.

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42 U.S.C. § 7545 regulates fuels and allows for a temporary waiver of a control or prohibition respecting the use of a fuel or fuel additive. By this authority, EPA may grant partial waivers allowing for gasoline-ethanol blends greater than 10 percent and up to 15 percent (E15) for use in MY2001 and newer light-duty vehicles. 40 CFR Part 80 establishes E15 labeling and survey requirements, as well as transfer document requirements for gasoline-oxymethylene blends.

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

***Illinois***

Illinois adopts by reference the most recent revisions of ASTM standards regarding motor fuel. Illinois adopts by reference sections of the most current revision of NIST Handbook 130, including the standards and test methods regarding gasoline-ethanol blends, which include E15 as gasoline. Illinois allows the sale of E15 as gasoline. Illinois requires fuel to meet specifications at base and blend.

***Iowa***

Iowa adopts ASTM standards and test methods regarding motor fuel. Iowa allows the sale of E15 as gasoline. Iowa requires fuel to meet specifications at base and blend.

***Michigan***

Michigan adopts standards and test methods regarding gasoline, motor fuel additives, and grading. Michigan allows the sale of E15 as gasoline. Michigan requires fuel to meet specifications at base and blend.

***Minnesota***

Minnesota requires petroleum products to meet ASTM standards, and allows for gasoline-ethanol blends to be blended up to any percentage specifically authorized by an EPA waiver under the Clean Air Act. Minnesota allows the sale of E15 as gasoline. Minnesota allows fuel to meet specifications at base or blend.

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19. Contact Name

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20. Contact Phone Number

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**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

None.

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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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