



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: May 8, 2025

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary

SUBJECT: **ATCP 94: Petroleum and Other Liquid Fuel Products;**
Wisconsin Admin. Code Chapter ATCP 94 (Hearing Draft Rule)

PRESENTED BY: David A. Woldseth, Policy Analyst, Division of Trade and Consumer Protection

REQUESTED ACTION:

At the May 8, 2025 Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to authorize a public hearing on a proposed rule (copy attached) related to petroleum and other liquid fuel products. The rule is authorized by Wis. Stat. §§ 168.04 and 168.16 (4). This rule implements Wis. Stat. § 93.07 (1) which requires the department, “To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department....”

SUMMARY:

This rule updates standards incorporated by reference in Wis. Admin. Code ch. ATCP 94.

DATCP published the draft scope statement in the November 18, 2024 *Wisconsin Administrative Register* and filed a copy with the Department of Administration (DOA). At its December 12, 2024 meeting, the DATCP Board approved a hearing on the scope statement, and it was held on January 7, 2025. The Board approved the scope statement January 30, 2025, and staff prepared the hearing draft rule that it presents for approval.

Next Steps

If the Board authorizes the public hearing on this rule, DATCP will refer a copy of the rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the *Wisconsin Administrative Register*. DATCP will then hold a public hearing on June 24 at the Prairie Oaks State Office Building.

Following the public hearing and one-week comment period, DATCP will prepare the final draft rule which will be presented for the Board’s consideration. If the Board approves, DATCP will transmit the rule to the Governor for his written approval.

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

PROPOSED ORDER

The Wisconsin department of agriculture, trade and consumer protection proposes the following rule *to amend* ATCP 94.100 (2) and ATCP 94.200 (1) (intro.), (a), (b), (c), (d), (e), (g), (h), (i), (j), (k), and (L) *relating to* petroleum product inspections and affecting small businesses.

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

This rule implements Wis. Stat. ch. 168, subch. I, which directs the department of agriculture, trade and consumer protection (department) to promulgate rules related to minimum product grade specifications of petroleum and other liquid fuels.

Statutes Interpreted

Statutes Interpreted: Wis. Stat. ss. 168.04 and 168.16 (4).

Statutory Authority

Statutory Authority: Wis. Stat. ss. 168.04 and 168.16 (4).

Explanation of Statutory Authority

The department has authority, under Wis. Stat. s. 168.04 (1), to promulgate rules that prescribe minimum product grade specifications for petroleum and other liquid fuel products. Wisconsin Stat. s. 168.04 (3) states that, except as otherwise provided in this section, rules promulgated under this section shall be in conformity with nationally recognized standards, specifications, and classifications, such as those published by ASTM International. The department has authority, under Wis. Stat. s. 168.16 (4), to promulgate reasonable rules relating to the administration and enforcement of Wis. Stat. ch. 168, subch. I.

Related Statutes and Rules

Wisconsin Stat. ch. 168, subch. I, titled *Petroleum Product Inspections*, grants the department authority to promulgate rules related to product grade specifications and to administration and enforcement of the subchapter.

Wisconsin Admin. Code ch. ATCP 93 implements Wis. Stat. ch. 168, subch. II, titled *Storage of Dangerous Substances*. Wisconsin Admin. Code ch. Chapter ATCP 93 establishes the appeals process for a system shutdown, which applies to both storage systems and the fuels contained within them.

Plain Language Analysis

Background

The department administers numerous rules that adopt recognized national and international standards by incorporating them through reference. Wisconsin Admin. Code ch. ATP 94 adopts standards set by ASTM International for the specification, composition, and testing methods of the regulated petroleum and liquid fuel products. Since Wis. Admin. Code ch. ATP 94 was last revised in February 2024, most of these ASTM standards have updated.

Rule Content

General

This rule updates standards incorporated by reference and makes other minor clarifying and corrective changes, as well as typical stylistic changes that may occur during rulemaking.

Standards Incorporated by Reference

Chapter ATP 94 of Wisconsin Administrative Code incorporates ASTM standards by reference, and those standards frequently update due to recommended changes by national and international experts in the industry. Quoting the Environmental Protection Agency (EPA), “Industry standards are technical guidelines created by experts in a particular industry for use throughout that industry. These guidelines assist in establishing common levels of safety and common practices for manufacture, maintenance, and repair. Standards-developing organizations use a consensus process to establish the minimum accepted industry practice.”

The department researched which standards in Wis. Admin. Code s. ATP 94.200 updated since the February 2024 revision. The standards in question are readily available in published form through the publishers or online. The department compared the current standards to the proposed updated standards and recommends the adoption of all. The following table highlights changes:

STANDARD	TITLE	STAKEHOLDERS	EFFECT
ASTM D396-24	Standard Specification for Fuel Oils	Fuel refineries, terminals, and retailers	Removal of EPA reference to 40 CFR Part 80.
ASTM D910-24	Standard Specification for Leaded Aviation Gasolines	Fuel refineries, terminals, and retailers; Aviation industry	Removal and replacement of a leaded aviation test method.
ASTM D975-24a	Standard Specification for Diesel Fuel	Fuel refineries, terminals, and retailers	Updated reference to EPA 40 CFR Part 1090. Additional test methods added.
ASTM D1655-24b	Standard Specification for Aviation Turbine Fuels	Fuel refineries, terminals, and retailers; Aviation industry	New definitions added and minor editorial changes.
ASTM D3699-24	Standard Specification for Kerosine	Fuel refineries, terminals, and retailers	New test methods added due to discontinuation of laboratory equipment.
ASTM D4806-21a	Standard Specification for Denatured Fuel Ethanol for Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel	Fuel refineries and terminals	Not Changed
ASTM D4814-24b	Standard Specification for Automotive Spark-Ignition Engine Fuel	Fuel refineries, terminals, and retailers	Lowering minimum T50 distillation temperature from 150°F to 145°F for Class D and E fuels. Changes to United States volatility schedule. No changes for Wisconsin volatility.
ASTM D5798-21	Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines	Fuel refineries, terminals, and retailers	Not changed
ASTM D6227-24a	Standard Specification for Unleaded Aviation Gasoline Containing a Non-hydrocarbon Component	Fuel refineries, terminals, and retailers	Added definitions and table reformatting for ease of reading.

ASTM D6751-24	Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels	Fuel refineries and terminals	Added definitions and table reformatting for ease of reading.
ASTM D7467-23	Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)	Fuel refineries, terminals, and retailers	Clarification of biodiesel grades and alignment with other ASTM specifications.
ASTM D7547-23	Standard Specification for Hydrocarbon Unleaded Aviation Gasoline	Fuel refineries, terminals, and retailers; Aviation industry	Clarification of dye color and amount used in hydrocarbon unleaded aviation gasoline.

Summary of and Comparison with Existing or Proposed Federal Statutes and Regulations

The federal Clean Air Act (CAA) authorizes the 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, 85, 86, and 1090 establish fuel quality and emissions standards by rule, which are enforced by EPA. These rules incorporate by indirect reference ASTM International standards and test methods.

To reduce the risk of ozone-related health problems, EPA regulates the vapor pressure of gasoline sold at retail stations during the summer ozone season to reduce evaporative emissions from gasoline that contribute to ground-level ozone, which might contribute to ozone-related health problems.

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

During the January 7, 2025, hearing on the statement of scope and the comment period, only the American Petroleum Institute commented. They supported the department efforts to update the rule to the most recent standards.

Comparison with Rules in Adjacent States

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.

Iowa

Iowa adopts ASTM standards and test methods regarding motor fuel.

Michigan

Michigan adopts ASTM standards and test methods regarding gasoline, motor fuel additives, and grading.

Minnesota

Minnesota requires petroleum products to meet ASTM standards.

Summary of Factual Data and Analytical Methodologies

To develop this rule, department staff determined the most recent ASTM standards at the time of drafting.

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

The fiscal estimate and economic impact analysis will be posted on the department website in compliance with EO 50.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

This rule may impact businesses that sell or distribute petroleum and other liquid fuel products, either at wholesale or retail. These businesses are already regulated under the existing rule, but they may need to make minor changes to comply with updated requirements.

Many of the businesses affected by this rule are “small businesses.” However, given the subject matter, there are very few accommodations or special exceptions that can be made for small businesses by the department. Therefore, the department does not propose any.

A complete *regulatory flexibility analysis* is attached.

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

Email at Bradford.Steinel@wisconsin.gov

Telephone at (608) 224-5024

Standards Incorporated by Reference

This rule updates the ASTM standards incorporated by reference in Wis. Admin. Code s. ATCP 94.200 to reference the most current standards. This rule directly adopts individual ASTM standards at the time of approval by the department of agriculture, trade, and consumer protection’s Board. As required by Wis. Stat. ch. 227, consent will be received from the Attorney General to incorporate these standards by reference after the public hearings and prior to seeking Board approval and the Governor’s assent to the final draft rule. A copy of these documents will be kept on file with the department and the Legislative Reference Bureau.

Department Contact

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

Where Comments May Be Submitted

David A. Woldseth
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Madison, WI 53708-8911
Telephone (608) 224-5164
E-Mail: DavidA.Woldseth@wisconsin.gov

After the June 24, 2025, hearing, the department will accept formal written comments for an additional two weeks and close the public comment period on July 8, 2025.

RULE TEXT

SECTION 1. ATPC 94.100 (2) is amended to read:

(2) ~~RULE-MAKING~~ RULEMAKING AUTHORITY.

Under ch. 168, Stats., the department has authority to promulgate rules relating to grade specifications for petroleum and other liquid fuel products; and to administer and enforce the rules.

SECTION 2. ATPC 94.200 (1) (a), (b), (c), (d), (e), (g), (h), (i), (j), (k), and (L) are amended to read:

ATPC 94.200 Adoption of standard specifications by reference.

(1) The following standards of the ~~2023~~ 2025 Annual Book of ASTM Standards of ASTM International are incorporated by reference into this chapter:

- (a) ASTM D396-~~21~~ 24, standard specification for fuel oils.
- (b) ASTM D910-~~21~~ 24, standard specification for leaded aviation gasolines.
- (c) ASTM D975-~~22~~ 24a, standard specification for diesel fuel ~~oils~~.
- (d) ASTM D1655-~~22~~ 24b, standard specification for aviation turbine fuels.
- (e) ASTM D3699-~~19~~ 24, standard specification for kerosine.
- (g) ASTM D4814-~~21e~~ 24b, standard specification for automotive spark-ignition engine fuel.
- (h) ASTM D5798-21 standard specification for ethanol fuel blends for flexible-fuel ~~for~~ automotive spark-ignition engines.

(i) ASTM D6227-18 24a, standard specification for unleaded aviation gasoline containing a non-hydrocarbon component.

(j) ASTM D6751-20a 24, standard specification for biodiesel fuel blend stock (B100) for middle distillate fuels.

(k) ASTM D7467-20a 23, standard specification for diesel fuel oil, biodiesel blend (B6 to B20).

(L) ASTM D7547-21 23, standard specification for hydrocarbon unleaded aviation gasoline.

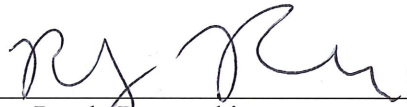
SECTION 3. EFFECTIVE DATE: This rule takes effect on the first day of the month following publication.

(END OF RULE TEXT)

Dated this 2 day of May, 2025.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: _____



Randy Romanski
Secretary

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date February 13, 2025								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 94									
4. Subject Petroleum and Other Liquid Fuel Products									
5. Fund Sources Affected <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	6. Chapter 20, Stats. Appropriations Affected								
7. Fiscal Effect of Implementing the Rule <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							
8. The Rule Will Impact the Following (Check All That Apply) <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 checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</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 checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
<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 (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$ minimal									
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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
11. Policy Problem Addressed by the Rule This rule updates standards incorporated by reference in Wis. Admin. Code § ATCP 94.200.									
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. This rule will apply to businesses that sell or distribute petroleum and other liquid fuel products, either at wholesale or at retail. The fiscal estimate and flexibility analyses will be posted with the draft rule as well as being posted on the DATCP website independent of the rule. The concerns of the regulated community were identified and addressed more thoroughly in the rulemaking.									
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None involved. Because the program is a state responsibility, DATCP does not expect local governments to have any additional expenses.									
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 in the ASTM International standards.									
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule <div style="text-align: center;"><i>Benefits</i></div> 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.									

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

This rule benefits consumers of petroleum and other liquid fuel products by ensuring that the Wisconsin Administrative Code is consistent with national standards.

Alternatives

Do nothing. If the department does not implement the numerous technical updates, the rule will be inconsistent with the latest national standards.

16. Long Range Implications of Implementing the Rule

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

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, 85, 86, and 1090 establish fuel quality and emissions standards by rule, which are enforced by EPA. These rules incorporate by reference ASTM International standards and test methods.

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.

Iowa

Iowa adopts ASTM standards and test methods regarding motor fuel.

Michigan

Michigan adopts ASTM standards and test methods regarding gasoline, motor fuel additives, and grading.

Minnesota

Minnesota requires petroleum products to meet ASTM standards.

19. Contact Name

David A. Woldseth

20. Contact Phone Number

608-224-5164

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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)

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

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:

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

None.

5. Describe the Rule's Enforcement Provisions

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

☐ Yes ☒ No

Wisconsin Department of Agriculture, Trade and Consumer Protection

Initial Regulatory Flexibility Analysis

Rule Subject: Petroleum and Other Liquid Fuel Products
Adm. Code Reference: ATPC 94
Rules Clearinghouse #:
DATCP Docket #: 24-R-09

Rule Summary

This rule updates standards incorporated by reference in Wis. Admin. Code s. ATPC 94.200.

Small Business Affected

This rule will apply to businesses that sell or distribute petroleum and other liquid fuel products, either at wholesale or at retail. Although these businesses are already regulated under the existing rule, they might need to make minor changes to comply with updated requirements.

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

Many of the businesses affected by this rule are “small businesses.” However, given the subject matter, there are very few 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. s. 227.22 (2) (e).

Dated this 1st day of May, 2025.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By



Michelle Reinen, Administrator
Division of Trade and Consumer Protection

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

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD

The Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on Wis. Admin. Code ch. ATPC 94, a permanent rule relating to petroleum and other liquid fuel products at the time and place shown below.

Hearing Information

Date: Tuesday, June 24, 2025

Time: Commencing at 10 a.m.

Location: Board Room 106, Prairie Oaks State Office Building
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Madison, WI 53718

Or

[Join the meeting now](#)

1 608-571-2209

Meeting ID: 299 455 002 439 4#

Passcode: Lz3jE6Za

Accessibility

1. Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by Tuesday, June 17, 2025, by writing to David A. Woldseth, 2811 Agriculture Drive, Madison, WI (608) 224-5164.
2. Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call David A. Woldseth at (608) 224-5164 with specific information on your request at least 10 days before the date of the scheduled hearing.
3. Access for individuals with disabilities is available at the hearing location.

Appearances at the Hearing and Submittal of Written Comments

The rule may be reviewed and comments made

at: <https://docs.legis.wisconsin.gov/code/chr/comment>

Or by writing to:

David A. Woldseth, Program and Policy Analyst
Division of Trade and Consumer Protection
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5164

Comments should be submitted no later than July 1, 2025.

Initial Regulatory Flexibility Analysis

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 \(2\) \(e\)](#).

Agency Small Business Regulatory Coordinator

Bradford Steine, Bradford.Steine1@wisconsin.gov, (608) 224-5024