

**DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER
PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Sale of Race Gasoline and Kerosene by the Half-Gallon

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

DEADLINE FOR SUBMISSION

The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. ch. 100, Wis. Admin. Code, ch. 94.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



Michelle Reinen
Acting Administrator
Division of Trade and Consumer Protection



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

GUIDANCE DOCUMENT

Date: March 17, 2023

Re: Sale of Race Gasoline and Kerosene by the Half-Gallon

Analysis:

Wisconsin Statute ch. 100 requires all advertising that shows or in any manner relates to the price at which motor fuel is offered for sale at retail at facilities selling more than 15,000 gallons annually be by the gallon. Due to increased fuel prices, many facilities that sell race gasoline and kerosene are unable to program the full price into fuel dispensers because the dispensers do not go above \$9.999 per gallon. There is no known fix for this problem. As a result, retailers of race gasoline and kerosene have requested DATCP approval to sell those products utilizing half-gallon pricing.

There is a precedent for this as Wis. Stat. § 100.18(6)(a)1. allows a person who sells less than 15,000 gallons of motor fuel in this state per year to show the half-gallon unit price instead of the full gallon price. That section of the statute was added in 2017 to accommodate retailers with older dispensing equipment that did not have the capability to display the full gallon price, such as marinas and facilities supplying recreational vehicles.

Statute Sections:

Wis. Stat. § 100.18(6)(a)1.

Conditions of temporary enforcement suspension:

A person who sells race gasoline or kerosene in this state may show the half-gallon unit price if all of the following conditions are met:

- The price includes all applicable taxes in one amount.
- The facility's dispensing equipment does not have the capability of displaying the full gallon price and all applicable taxes.
- All advertising of race gasoline or kerosene, including price signage, display the half-gallon price.
- The retailer must take all appropriate steps to ensure that consumers are charged correctly when utilizing half-gallon pricing.
- This temporary and conditional suspension of enforcement will expire on December 31, 2023.
- The Department may rescind this guidance document at any time prior to December 31, 2023, after providing industry at least 30 days' advance notice.

For questions, please contact the department at (608) 224-4942 or email datcpwmcompliance@wi.gov.

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