

2013 DRAFTING REQUEST

Bill

Received: 7/10/2013 Received By: mkunkel
Wanted: As time permits Same as LRB:
For: Mary Lazich (608) 266-5400 By/Representing: Tricia Seig
May Contact: Drafter: mkunkel
Subject: Trade Regulation - other Addl. Drafters:
Extra Copies: MPG

Submit via email: YES
Requester's email: Sen.Lazich@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Certifications regarding mobile air conditioners

Instructions:

Prepare preliminary draft that repeals s. 100.45.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 8/1/2013			_____			
/P1	mkunkel 10/7/2013	scalvin 8/15/2013	jfrantze 8/15/2013	_____	mbarman 8/15/2013		State
/P2	mkunkel 1/21/2014	scalvin 10/14/2013	rschluet 10/14/2013	_____	lparisi 10/14/2013		State
/1		scalvin	jmurphy	_____	mbarman	mbarman	State

Vers. Drafted

Reviewed
1/21/2014

Typed
1/21/2014

Proofed

Submitted
1/21/2014

Jacketed
1/21/2014

Required

FE Sent For:

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INTRO

<END>

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/P2	mkunkel 1/21/2014	scalvin 10/14/2013	rschluet 10/14/2013	_____	lparisi 10/14/2013		State
/1		scalvin	jmurphy	_____	mbarman		State

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		1/21/2014	1/21/2014	_____	1/21/2014		

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/P2		scalvin 10/14/2013	rschluet 10/14/2013	_____	lparisi 10/14/2013		State
		/1 sac 01/21/2014	/1 sac 01/21/2014	Jim 1/21			

PA:
please
jacket
/2.
-MAIK

FE Sent For:

<END>

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Repeal requirements regarding mobile air conditioners

Instructions:

Prepare preliminary draft that repeals s. 100.45.

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/P1		scalvin 8/15/2013	jfrantze 8/15/2013	_____	mbarman 8/15/2013		State
FE Sent For:		P2 sac 10/14/2013					

10/14/13
<END>

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/?	mkunkel	/PI sac 08/14/2013		8/15			

FE Sent For:

<END>



Clean Air Act

You are here: [EPA Home](#) » [Air and Radiation](#) » [Clean Air Act](#) » Title VI

<http://www.epa.gov/oar/caa/title6.html>
Last updated on Friday, December 19, 2008

Title VI - Stratospheric Ozone Protection

This page has links to Clean Air Act sections that are part of the U.S. Code Collection maintained by the Legal Information Institute of the Cornell University Law School. EPA does not control the content of that website.

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Section		Title
Clean Air Act	U.S. Code	
601	7671	Definitions
602	7671a	Listing of class I and class II substances
603	7671b	Monitoring and reporting requirements
604	7671c	Phase-out of production and consumption of class I substances
605	7671d	Phase-out of production and consumption of class II substances
606	7671e	Accelerated schedule
607	7671f	Exchange authority
608	7671g	National recycling and emission reduction program
609	7671h	Servicing of motor vehicle air conditioners
610	7671i	Nonessential products containing chlorofluorocarbons
611	7671j	Labeling
612	7671k	Safe alternatives policy
613	7671l	Federal procurement
614	7671m	Relationship to other laws
615	7671n	Authority of Administrator
616	7671o	Transfers among Parties to Montreal Protocol
617	7671p	International cooperation
618	7671q	Miscellaneous provisions

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TOC: United States Code Service; Code, Const, Rules, Conventions & Public Laws > / . . . / >
STRATOSPHERIC OZONE PROTECTION > **§ 7671. Definitions**

Citation: **42 usc 7671**

42 USCS § 7671

UNITED STATES CODE SERVICE
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*** Current through PL 113-22, approved 7/25/13 ***

TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 85. AIR POLLUTION PREVENTION AND CONTROL
STRATOSPHERIC OZONE PROTECTION

Go to the United States Code Service Archive Directory

42 USCS § 7671

§ 7671. Definitions

As used in this title--

(1) Appliance. The term "appliance" means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

(2) Baseline year. The term "baseline year" means--

(A) the calendar year 1986, in the case of any class I substance listed in Group I or II under section 602(a) [42 USCS § 7671a(a)],

(B) the calendar year 1989, in the case of any class I substance listed in Group III, IV, or V under section 602(a) [42 USCS § 7671a(a)], and

(C) a representative calendar year selected by the Administrator, in the case of--

(i) any substance added to the list of class I substances after the publication of the initial list under section 602(a) [42 USCS § 7671a(a)], and

(ii) any class II substance.

(3) Class I substance. The term "class I substance" means each of the substances listed as provided in section 602(a) [42 USCS § 7671a(a)].

(4) Class II substance. The term "class II substance" means each of the substances listed as provided in section 602(b) [42 USCS § 7671a(b)].

Practitioner's Toolbox

History

Interpretive Notes and Decisions

History; Ancillary Laws and Directives

Code of Federal Regulations

Resources & Practice Tools

Related Statutes & Rules

Research Guide

Criminal Law and Practice:

> 6 Business Crime (Matthew Bender), ch 31, Environmental Law Violations P 31.05.

Annotations:

> Clean Air Act--Supreme Court Cases. 7 ALR Fed 2d 357.

Texts:

> 2A Environmental Law Practice Guide (Matthew Bender), ch 15, International Activities and United States Environmental Law § 15.03.

> 3 Environmental Law Practice Guide (Matthew Bender), ch 17, Clean Air Act §§ 17.11, 17.19A.

> 4 Environmental Law Practice Guide (Matthew Bender), ch 24, Wildlife and Habitat Protection § 24.05.

More...

2013 Assembly Bill 40

2013 Wisconsin Act 20

STATUTE, AGENCY AND PURPOSE	SOURCE	TYPE	2013-2014	2014-2015
(gh) Public warehouse regulation	PR	A	126,000	126,200
(gm) Dairy trade regulation	PR	A	158,500	158,700
(h) Grain inspection and certification	PR	C	1,148,600	1,148,600
(hm) Ozone-depleting refrigerants and products regulation	PR	A	470,100	470,400
(i) Sale of supplies	PR	A	25,400	25,400
(im) Consumer protection; telephone solicitor fees	PR	A	241,700	248,300
(ip) Bisphenol A enforcement	PR	C	-0-	-0-
(j) Weights and measures inspection	PR	A	1,274,900	1,274,900
(jb) Consumer protection, information, and education	PR	A	147,800	147,800
(jm) Telecommunications utility trade practices	PR	A	382,200	386,200
(m) Federal funds	PR-F	C	5,505,100	5,505,800
(q) Dairy, grain, and vegetable security	SEG	A	1,147,000	1,151,800
(r) Unfair sales act enforcement	SEG	A	222,000	228,500
(s) Weights and measures; petroleum inspection fund	SEG	A	786,400	790,000
(t) Petroleum products; petroleum inspection fund	SEG	A	4,984,700	4,795,100
(u) Recyclable and nonrecyclable products regulation	SEG	A	-0-	-0-

20.115
(1)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2665/P1

MDK:.....

SAC

D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*12
8-1*

gen cat
1 AN ACT *gen cat*; relating to: the regulation of motor vehicle air conditioners and
2 making an appropriation.

Analysis by the Legislative Reference Bureau

law Current law generally prohibits a motor vehicle manufacturer or distributor of new motor vehicles from selling motor vehicle air conditioners that are original equipment and that contain "ozone-depleting refrigerants" (ODRs), which are defined as refrigerants containing certain substances specified under the federal Clean Air Act. Current law imposes other requirements on ODRs, including prohibiting the sale of any ODR in a container holding less than 15 pounds. Also, current law allows a person to sell new or reclaimed ODRs for use in motor vehicle or trailer refrigeration equipment only if the sale is to a reseller or a person registered with the Department of Agriculture, Trade and Consumer Protection (DATCP). In addition, current law imposes certain requirements on the transfer of unreclaimed ODRs that are removed from motor vehicle air conditioners, as well as requirements on the handling of ODRs when repairing motor vehicles or installing or servicing motor vehicle air conditioners. Current law authorizes DATCP to administer the foregoing requirements, as well as to promulgate rules that, with certain exceptions, apply the foregoing requirements to substances that are used as substitutes for ODRs. This bill eliminates all of the foregoing prohibitions and requirements.

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2665/P1ins
MDK:.....

1

INSERT 2-13:

2

SECTION 1. 341.075 of the statutes is repealed.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2665/P1dn

MDK:}.....

Sac

-date-

Sen. Lazich:

Under current law, there is one appropriation to DATCP to carry out its duties under both ss. 100.45 and 100.50. Under that appropriation (s. 20.115 (1) (hm)), \$470,100 is appropriated in fiscal year 2013-14 and \$470,400 in fiscal year 2014-15. Because this draft eliminates DATCP's duties under s. 100.45, you should contact DATCP, DOA, or LFB to determine how the money appropriated under s. 20.115 (1) (hm) is allocated between the duties under ss. 100.45 and 100.50 and decrease the amount appropriated accordingly.

Also note that I have included the phrase "making an appropriation" in the relating clause to this version of the draft. However, if you decrease the amount appropriated under s. 20.115 (1) (hm) to reflect the elimination of DATCP's duties under s. 100.45, I will remove that phrase from the relating clause in the next version of the draft. Unless the amount appropriated is decreased, the draft would have the effect of making an appropriation, as it would result in increasing the amount of money available for DATCP's duties under s. 100.50.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2665/P1dn
MDK:sac:jf

August 15, 2013

Sen. Lazich:

Under current law, there is one appropriation to DATCP to carry out its duties under both ss. 100.45 and 100.50. Under that appropriation (s. 20.115 (1) (hm)), \$470,100 is appropriated in fiscal year 2013-14 and \$470,400 in fiscal year 2014-15. Because this draft eliminates DATCP's duties under s. 100.45, you should contact DATCP, DOA, or LFB to determine how the money appropriated under s. 20.115 (1) (hm) is allocated between the duties under ss. 100.45 and 100.50 and decrease the amount appropriated accordingly.

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: Sieg, Tricia
Sent: Monday, September 30, 2013 9:16 AM
To: Kunkel, Mark
Subject: DATCP rule we spoke about
Attachments: 2013 ATCP 136 Scope Statement 9-11-2013 perm and emergency rule.doc

STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection (DATCP)

Rule No.: Ch. ATCP 136, Wis. Adm. Code (Existing)

Relating to: Mobile Air Conditioners; Reclaiming or Recycling Refrigerant

1. Description of the objective of the rule:

This proposed rule and emergency rule would modify current trade and consumer protection rules related to mobile air conditioners. Currently, ch. ATCP 136, Wis. Adm. Code., requires businesses that install, repair or service mobile air conditioners to pay an annual registration fee and obtain an annual registration certificate from the department. The rule also requires businesses to register their mobile air service technicians, and for those technicians to successfully complete a department-approved training course or satisfy other training requirements.

DATCP proposes to eliminate the registration fee and streamline the registration and training requirements currently required under this rule. These modifications will harmonize DATCP's rule with federal requirements and reduce overall regulatory burdens by eliminating duplicative training and registration requirements. The department will also remove references to obsolete Department of Safety and Professional Services (DSPS) licensing requirements and make other minor modifications needed to ensure uniformity between the statute and rule. The proposed emergency rule would enable the fee reductions to take effect for the 2014 licensing year, which begins March 1, 2014.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:

History and background. This rule, along with its enabling statute s. 100.45, Wis. Stats., regulates the sale and distribution of refrigerants used in motor vehicle air conditioners and trailer refrigeration equipment. It also requires businesses (such as automobile repair shops) and technicians who service this equipment to be registered with DATCP. Technicians must also complete a training course or satisfy other training requirements. In 2012, 3122 businesses holding 3602 licenses (160 businesses held more than one location license) and about 11,000 technicians registered with the department.

The 1989 enabling statute required the department to write rules to regulate the use of ozone-depleting refrigerants. DATCP promulgated the initial rule in 1990 and expanded the rule in 1995 to include registration requirements for technicians and used refrigerant brokers, control the sale and distribution of used refrigerant, and establish purity standards for reclaimed or recycled refrigerants. In 2000, the department modified the rule again to increase the registration fee for businesses engaged in repairing and servicing mobile air conditioners and trailer refrigeration equipment, eliminate references to "used refrigerant broker", and regulate the use of substitute refrigerants. Technical changes to the rule were made in 2009 and also are currently being promulgated. The most recent technical rule changes will align the rule with 2011 statutory changes repealing the ban on selling containers holding less than 15 pounds of refrigerant ("small can ban").

As a result of the 2011 statutory changes, Wisconsin's regulations are now consistent with EPA requirements and the EPA-approved training program should meet Wisconsin's training needs.

In 2013, the legislature repealed requirements that refrigerant technicians be certified by DSPS. These former licensing requirements are housed in DSPS 305.72, and referenced in ATCP 136. This rulemaking will modify the rule to remove references to those requirements.

Nature of the Emergency

An emergency rule is necessary because the registration fee and training requirements are unnecessary expenses and regulations that affect the welfare of business and industry. Permanent rules cannot be adopted in time to eliminate the fee and training requirements for the 2014 registration year. The emergency and permanent rules will have similar provisions.

Proposed policies. DATCP proposes to streamline the annual registration requirements and eliminate the annual registration fee for operators of mobile air conditioner repair or service businesses. In addition, DATCP proposes to designate the technician training course approved by the EPA under 40 CFR 82.40 as a department-approved course. DATCP also proposes to modify the rule to removed outdated references and make any other minor revisions that may be necessary to harmonize the statute and rule. The proposed emergency rule would allow these changes to take effect for the 2014 licensing year.

Policy Alternatives. The department could maintain the existing registration requirements and fees for operators of mobile air conditioner repair and service businesses. Alternatively, the department could reduce the annual registration fee, but not eliminate it. In addition, the department could continue to require additional Wisconsin-specific training for technicians. The department also could skip the emergency rule, which would keep existing fees and training requirements in effect until the permanent rule is promulgated.

3. Statutory authority for the rule (including the statutory citation and language):

Sections 93.07 (1), s. 100.45 (5)

93.07 Department duties. It shall be the duty of the department:

(1) REGULATIONS. 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, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

* * *

S. 100.45 Mobile air conditioners

(5) DEPARTMENT DUTIES. The department shall do all of the following:

(a) Promulgate rules for the administration of this section including establishing all of the following:

1. A standard of purity for recycled refrigerant from mobile air conditioners that is based on recognized national industry standards.
2. Qualifications, which may include training or certification requirements, for individuals who use approved refrigerant recycling equipment or approved refrigerant recovery equipment to ensure that those individuals use procedures for containment of ozone-depleting refrigerant.
3. Fees to cover the costs of administering this section.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

DATCP estimates that it will use approximately 0.25 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

5. Description of all entities that may be impacted by the rule:

Approximately 3600 mobile air conditioning repair and servicing businesses and 11,000 technicians will be impacted by the rule. The proposed streamlined registration requirements, reduced fees, and expanded training options will save both technicians and their employers time and money, and have a positive financial impact on those businesses.

Wisconsin technical colleges may also be impacted by the rule. Currently, the technical colleges are the major provider of the DATCP-required technician training. If the EPA-approved course is automatically considered to be "department-approved," attendance at the technical colleges' training courses may decline. Technicians could still choose to attend training provided by the technical colleges if they and their employers find it value-added. Technical colleges may also become authorized to provide EPA-approved training.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:

At the national level, the EPA requires technicians to be trained and certified by an EPA-approved organization. The training must cover specific content areas, and technicians must pass a test demonstrating competency to be certified. Under the current DATCP rule, the EPA-approved course does not automatically meet the DATCP training standards. Therefore, a technician seeking certification in Wisconsin--who has already successfully completed the EPA approved course--must also (in most circumstances) complete a DATCP-approved course. Under the proposed rule revision, a technician who completes the EPA-approved course would meet the DATCP training requirements.

7. Anticipated economic impact

DATCP expects the proposed rule and emergency rule to have a positive economic effect on mobile air conditioning businesses. By eliminating the registration fee, approximately 3600 licensed locations will save \$120 per registered location, or about \$420,000 statewide. In addition, by removing the duplicative training requirement, technicians (or their employers) will only be required to pay for and attend one training course, saving an unknown amount of time and money.

Contact Person: Jennifer Heaton-Amrhein, Program and Planning Analyst, DATCP; Phone (608) 224-5164

Ben Brancel
Secretary
Department of Agriculture, Trade and Consumer Protection

September 12, 2013
Date Submitted

Kunkel, Mark

From: Kunkel, Mark
Sent: Tuesday, October 01, 2013 8:35 AM
To: Chalmers, Sandy S - DATCP
Cc: Moll, Keeley A - DATCP
Subject: RE: DATCP rule we spoke about

Thank you, that's helpful.

--Mark

From: Chalmers, Sandy S - DATCP [<mailto:Sandy.Chalmers@wisconsin.gov>]
Sent: Tuesday, October 01, 2013 8:22 AM
To: Kunkel, Mark
Cc: Moll, Keeley A - DATCP
Subject: RE: DATCP rule we spoke about

Hi, Mark –

We can't begin drafting the rule until the DATCP Board approves the scope statement, which will happen (I hope) in November. Our approach is outlined in the "proposed policies" section of the scope statement.

I did mention to Sen. Lazich's staff the possibility of repealing the sections of s. 100.45 that pertain to licensing businesses and registering/training technicians. That may be what they are asking you to do.

From: Kunkel, Mark [<mailto:Mark.Kunkel@legis.wisconsin.gov>]
Sent: Monday, September 30, 2013 4:34 PM
To: Chalmers, Sandy S - DATCP
Subject: FW: DATCP rule we spoke about

I'm one of the drafting attorneys at the LRB who does drafting related to DATCP. I've received a drafting request from Sen. Lazich's office regarding the emergency rule summarized in the attachment. However, I don't have a copy of the proposed rule itself. Can I get a copy from you? I tried finding it on DATCP's website, but I didn't see it there.

Thanks,

--Mark

From: Sieg, Tricia
Sent: Monday, September 30, 2013 9:16 AM
To: Kunkel, Mark
Subject: DATCP rule we spoke about

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10.5K followers 13k

CFR > Title 40 > Chapter I > Subchapter C > Part 82 > Subpart B > Section 82.40

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40 CFR 82.40 - Technician training and certification.

There are 4 Updates appearing in the Federal Register for 40 CFR 82. Select the tab below to view, or [View eCFR \(GPOAccess\)](#)

CFR **Updates** **Authorities (U.S. Code)** **Rulemaking**

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§ 82.40

Technician training and certification.

(a) Any technician training and certification program may apply for approval, in accordance with the provisions of this paragraph, by submitting to the Administrator at the address in § 82.38(a) verification that the program meets all of the following standards:

(1) **Training.** Each program must provide adequate training, through one or more of the following means: on-the-job training, training through self-study of instructional material, or on-site training involving instructors, videos or a hands-on demonstration.

(2) **Test subject material.** The certification tests must adequately and sufficiently cover the following:

(i) The standards established for the service and repair of MVACs and MVAC-like appliances as set forth in appendices A, B, C, D, E, and F of this subpart. These standards relate to the recommended service procedures for the containment of refrigerant, extraction equipment, extraction and recycle equipment, and the standard of purity for refrigerant in motor vehicle air conditioners.

(ii) Anticipated future technological developments, such as the introduction of HFC-134a in new motor vehicle air conditioners.

(iii) The environmental consequences of refrigerant release and the adverse effects of stratospheric ozone layer depletion.

(iv) As of August 13, 1992, the requirements imposed by the Administrator under section 609 of the Act.

(3) **Test administration.** Completed tests must be graded by an entity or individual who receives no benefit based on the outcome of testing; a fee may be charged for grading. Sufficient measures must be taken at the test site to ensure that tests are completed honestly by each technician. Each test must provide a means of verifying the identification of the individual taking the test. Programs are encouraged to make provisions for non-English speaking technicians by providing tests in other languages or allowing the use of a translator when taking the test. If a translator is used, the certificate received must indicate that translator assistance was required.

(4) **Proof of certification.** Each certification program must offer individual proof of certification, such as a certificate, wallet-sized card, or display card, upon successful completion of the test. Each certification program must provide a unique number for each certified technician.

(b) In deciding whether to approve an application, the Administrator will consider the extent to which the applicant has documented that its program meets the standards set forth in this section. The Administrator reserves the right to consider other factors deemed relevant to ensure the effectiveness of certification programs. The Administrator may approve a program which meets all of the standards in paragraph (a) of this section

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Keith Robert Wessel

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Kristen Elizabeth Lehker

except test administration if the program, when viewed as a whole, is at least as effective as a program that does meet all the standards. Such approval shall be limited to training and certification conducted before August 13, 1992. If approval is denied under this section, the Administrator shall give written notice to the program setting forth the basis for his determination.

(c) Technical revisions. Directors of approved certification programs must conduct periodic reviews of test subject material and update the material based upon the latest technological developments in motor vehicle air conditioner service and repair. A written summary of the review and any changes made must be submitted to the Administrator every two years.

(d) Recertification. The Administrator reserves the right to specify the need for technician recertification at some future date, if necessary.

(e) If at any time an approved program is conducted in a manner not consistent with the representations made in the application for approval of the program under this section, the Administrator reserves the right to revoke approval.

(f) Authorized representatives of the Administrator may require technicians to demonstrate on the business entity's premises their ability to perform proper procedures for recovering and/or recycling refrigerant. Failure to demonstrate or failure to properly use the equipment may result in revocation of the technician's certificate by the Administrator. Technicians whose certification is revoked must be recertified before servicing or repairing any motor vehicle air conditioners.

[57 FR 31261, July 14, 1992, as amended at 60 FR 21688, May 2, 1995; 62 FR 68048, Dec. 30, 1997]

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42 USC § 7671h - Servicing of motor vehicle air conditioners

[US Code](#) [Notes](#) [Updates](#) [Authorities \(CFR\)](#)Current through Pub. L. [113-36](#). (See [Public Laws for the current Congress](#).)

(a) Regulations

Within 1 year after November 15, 1990, the Administrator shall promulgate regulations in accordance with this section establishing standards and requirements regarding the servicing of motor vehicle air conditioners.

(b) Definitions

As used in this section—

(1)The term "refrigerant" means any class I or class II substance used in a motor vehicle air conditioner. Effective 5 years after November 15, 1990, the term "refrigerant" shall also include any substitute substance.

(2)

(A)The term "approved refrigerant recycling equipment" means equipment certified by the Administrator (or an independent standards testing organization approved by the Administrator) to meet the standards established by the Administrator and applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of November 15, 1990, and applicable to such equipment (SAE standard J-1990).

(B)Equipment purchased before the proposal of regulations under this section shall be considered certified if it is substantially identical to equipment certified as provided in subparagraph (A).

(3)The term "properly using" means, with respect to approved refrigerant recycling equipment, using such equipment in conformity with standards established by the Administrator and applicable to the use of such equipment. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of November 15, 1990, and applicable to the use of such equipment (SAE standard J-1989).

(4)The term "properly trained and certified" means training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of November 15, 1990, in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

(c) Servicing motor vehicle air conditioners

Effective January 1, 1992, no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment and no such person may perform such service unless such person has been

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properly trained and certified. The requirements of the previous sentence shall not apply until January 1, 1993 in the case of a person repairing or servicing motor vehicles for consideration at an entity which performed service on fewer than 100 motor vehicle air conditioners during calendar year 1990 and if such person so certifies, pursuant to subsection (d)(2) of this section, to the Administrator by January 1, 1992.

(d) Certification

(1) Effective 2 years after November 15, 1990, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator either—

(A) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

(B) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1991.

(2) Effective January 1, 1993, each person who certified under paragraph (1)(B) shall submit a certification under paragraph (1)(A).

(3) Each certification under this subsection shall contain the name and address of the person certifying under this subsection and the serial number of each unit of approved recycling equipment acquired by such person and shall be signed and attested by the owner or another responsible officer. Certifications under paragraph (1)(A) may be made by submitting the required information to the Administrator on a standard form provided by the manufacturer of certified refrigerant recycling equipment.

(e) Small containers of class I or class II substances

Effective 2 years after November 15, 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with this section) any class I or class II substance that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and that is in a container which contains less than 20 pounds of such refrigerant.

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2665/P1

MDK:sac

O-NOTE

P2

RM has been
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SOON

IN
10-7

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 AN ACT *to repeal* 100.45, 341.075 and 341.10 (14); and *to amend* 20.115 (1) (hm)
2 and 285.59 (1) (a) of the statutes; **relating to:** the regulation of motor vehicle
3 air conditioners ~~and making an appropriation.~~

Analysis by the Legislative Reference Bureau

INSERT A

Current law generally prohibits a motor vehicle manufacturer or distributor of new motor vehicles from selling motor vehicle air conditioners that are original equipment and that contain "ozone-depleting refrigerants" (ODRs), which are defined as refrigerants containing certain substances specified under the federal Clean Air Act. Current law imposes other requirements on ODRs, including prohibiting the sale of any ODR in a container holding less than 15 pounds. Also, current law allows a person to sell new or reclaimed ODRs for use in motor vehicle or trailer refrigeration equipment only if the sale is to a reseller or a person registered with the Department of Agriculture, Trade and Consumer Protection (DATCP). In addition, current law imposes certain requirements on the transfer of unreclaimed ODRs that are removed from motor vehicle air conditioners, as well as requirements on the handling of ODRs when repairing motor vehicles or installing or servicing motor vehicle air conditioners. Current law authorizes DATCP to administer the foregoing requirements, as well as to promulgate rules that, with certain exceptions, apply the foregoing requirements to substances that are used as substitutes for ODRs. This bill eliminates all of the foregoing prohibitions and requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 20.115 (1) (hm) of the statutes is amended to read:

20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation.* The amounts in the schedule for administration of the mobile air conditioner servicing and refrigerant recycling programs and for responsibilities under ss. 100.45 and s. 100.50 relating to sales and labeling of products containing or made with ozone-depleting substances. ~~All moneys received from fees under s. 100.45 (5) (a) 3 and (5m) shall be credited to this appropriation.~~ (plain) (plain)

SECTION 2. 100.45 of the statutes is repealed.

SECTION 3. 285.59 (1) (a) of the statutes is amended to read:

285.59 (1) (a) "Ozone-depleting refrigerant" has the meaning given in s. 100.45 (1) (d) means a substance used in refrigeration that is or contains a class I substance, as defined in 42 USC 7671 (3) or a class II substance, as defined in 42 USC 7671 (4).

SECTION 4. 341.075 of the statutes is repealed.

SECTION 5. 341.10 (14) of the statutes is repealed.

~~(END)~~

↑ stays

INSERT 2-14

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INSERT A:

Current state law imposes various requirements on the use of ozone-depleting refrigerants (ODRs) in motor vehicle air conditioners, including prohibiting a person from installing or servicing a motor vehicle air conditioner containing an ODR unless the person holds an annual certification issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). Current state law also allows DATCP to charge an applicant for annual certification a surcharge if DATCP determines that the person violated the certification requirement prior to applying for certification. In addition, current state law requires DATCP to promulgate rules establishing qualifications for persons who use equipment for removing or recycling ODRs from motor vehicle air conditioners. The qualifications may include training and certification requirements. Also under current state law, a person may sell new or reclaimed ODRs for use in motor vehicle air conditioners only to resellers and persons holding annual certifications. Current state law also requires persons to transfer unreclaimed ODRs that are removed from motor vehicle air conditioners to either reclamation facilities recognized by DATCP or to persons holding annual certifications.

Current federal law also regulates the use of ODRs, including prohibiting a person from servicing a motor vehicle air conditioner unless the person is "properly trained and certified," which is defined as training and certification in conformity with standards established by the federal Environmental Protection Agency (EPA).

This bill eliminates DATCP's duty to promulgate rules establishing qualifications for persons who use equipment for removing or recycling ODRs from motor vehicle air conditioners. The bill also eliminates the requirement for DATCP to issue the annual certifications described above. Instead, the bill prohibits a person from servicing a motor vehicle air conditioner containing an ODR unless the person is properly trained and certified as specified by the EPA. In addition, under the bill, a person may sell ODRs for use in motor vehicle air conditioners only to resellers and persons who are so properly trained and certified. Also, the bill allows persons to transfer unreclaimed ODRs removed from motor vehicle air conditioners only to DATCP-recognized reclamation facilities or to persons who are so properly trained and certified.

2

INSERT 2-14:

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SECTION 1. 20.115 (1) (hm) of the statutes is amended to read:

4

20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation.* The

5

amounts in the schedule for administration of the mobile air conditioner servicing

6

and refrigerant recycling programs and for responsibilities under ss. 100.45 and

7

100.50 relating to sales and labeling of products containing or made with

1 ozone-depleting substances. All moneys received from fees under s. 100.45 (5) (a)
2 3. and ~~(5m)~~ shall be credited to this appropriation.

History: 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138, 153, 313; 1987 a. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 79, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25; 2007 a. 20, 125, 223; 2009 a. 28, 90, 145, 293, 401; 2011 a. 32, 278; 2013 a. 20 ss. 201, 202s, 203, 204, 207, 213m.

3 **SECTION 2.** 100.45 (3) (b) 2. of the statutes is amended to read:

4 100.45 (3) (b) 2. A person who holds ~~an annual registration certificate under~~
5 sub. (4) (h) is properly trained and certified as specified by the federal environmental
6 protection agency under 42 USC 7671h.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7, 10, 187; s. 35.17 correction in (1) (dm).

7 **SECTION 3.** 100.45 (3) (c) 4. of the statutes is amended to read:

8 100.45 (3) (c) 4. All of the recovered ozone-depleting refrigerant is conveyed in
9 a safe and timely manner to a refrigerant reclamation facility that is recognized by
10 the department or to a person who ^{plain} holds ~~an annual registration certificate under sub.~~
11 (4) (h) for recycling and reuse or resale is properly trained and certified as specified
12 by the federal environmental protection agency under 42 USC 7671h.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7, 10, 187; s. 35.17 correction in (1) (dm).

13 **SECTION 4.** 100.45 (4) (d) of the statutes is amended to read:

14 100.45 (4) (d) The individuals who use the equipment under par. (c) have the
15 qualifications established under sub. (5) (a) 2 ^A been properly trained and certified as
16 specified by the federal environmental protection agency under 42 USC 7671h.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7, 10, 187; s. 35.17 correction in (1) (dm).

17 **SECTION 5.** 100.45 (4) (h) of the statutes is amended to read:

18 100.45 (4) (h) The person holds ~~an annual registration certificate from the~~
19 department ^{been} has properly trained and certified as specified by the federal
20 environmental protection agency under 42 USC 7671h.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335; 2009 a. 28; 2011 a. 7, 10, 187; s. 35.17 correction in (1) (dm).

21 **SECTION 6.** 100.45 (5) (a) 2. of the statutes is repealed.

22 **SECTION 7.** 100.45 (5) (c) of the statutes is repealed.

1 ^x
SECTION 8. 100.45 (5m) of the statutes is repealed.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2665/P2dn

MDK:f:....

Sac

- date -

Sen. Lazich:

This version of the bill repeals DATCP's annual certification requirements and requires instead that persons who service mobile air conditioners must be properly trained and certified as specified by the EPA under federal law. You may want to have DATCP review this version to make sure that it is consistent with the emergency rule that DATCP discussed with your office.

its
* You may also want DATCP to review the appropriation under s. 20.115 (1) (hm), as the bill eliminates the certification fees and surcharges which are credited to that appropriation. One issue to consider is whether DATCP will have sufficient funding to carry out (is) duties under ss. 100.45 and 100.50, which are funded by that appropriation. Another (is) issue is whether it is necessary to ~~decrease~~ the amount in the schedule for that appropriation to reflect the elimination of the certification fees and surcharges.

adjust

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2665/P2dn
MDK:sac:rs

October 14, 2013

Sen. Lazich:

This version of the bill repeals DATCP's annual certification requirements and requires instead that persons who service mobile air conditioners must be properly trained and certified as specified by the EPA under federal law. You may want to have DATCP review this version to make sure that it is consistent with the emergency rule that DATCP discussed with your office.

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov



9 (1)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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- gen act

- 1 **AN ACT to repeal** 100.45 (5) (a) 2., 100.45 (5) (c) and 100.45 (5m); and **to amend**
- 2 20.115 (1) (hm), 100.45 (3) (b) 2., 100.45 (3) (c) 4., 100.45 (4) (d) and 100.45 (4)
- 3 (h) of the statutes; **relating to:** the regulation of motor vehicle air conditioners.

Analysis by the Legislative Reference Bureau

Current state law imposes various requirements on the use of ozone-depleting refrigerants (ODRs) in motor vehicle air conditioners, including prohibiting a person from installing or servicing a motor vehicle air conditioner containing an ODR unless the person holds an annual certification issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). Current state law also allows DATCP to charge an applicant for annual certification a surcharge if DATCP determines that the person violated the certification requirement prior to applying for certification. In addition, current state law requires DATCP to promulgate rules establishing qualifications for persons who use equipment for removing or recycling ODRs from motor vehicle air conditioners. The qualifications may include training and certification requirements. Also under current state law, a person may sell new or reclaimed ODRs for use in motor vehicle air conditioners only to resellers and persons holding annual certifications. Current state law also requires persons to transfer unreclaimed ODRs that are removed from motor vehicle air conditioners to either reclamation facilities recognized by DATCP or to persons holding annual certifications.

Current federal law also regulates the use of ODRs, including prohibiting a person from servicing a motor vehicle air conditioner unless the person is "properly trained and certified," which is defined as training and certification in conformity with standards established by the federal Environmental Protection Agency (EPA).

This bill eliminates DATCP's duty to promulgate rules establishing qualifications for persons who use equipment for removing or recycling ODRs from motor vehicle air conditioners. The bill also eliminates the requirement for DATCP to issue the annual certifications described above. Instead, the bill prohibits a person from servicing a motor vehicle air conditioner containing an ODR unless the person is properly trained and certified as specified by the EPA. In addition, under the bill, a person may sell ODRs for use in motor vehicle air conditioners only to resellers and persons who are so properly trained and certified. Also, the bill allows persons to transfer unreclaimed ODRs removed from motor vehicle air conditioners only to DATCP-recognized reclamation facilities or to persons who are so properly trained and certified.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (1) (hm) of the statutes is amended to read:

2 20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation.* The
3 amounts in the schedule for administration of the mobile air conditioner servicing
4 and refrigerant recycling programs and for responsibilities under ss. 100.45 and
5 100.50 relating to sales and labeling of products containing or made with
6 ozone-depleting substances. All moneys received from fees under s. 100.45 (5) (a)
7 3. ~~and (5m)~~ shall be credited to this appropriation.

8 **SECTION 2.** 100.45 (3) (b) 2. of the statutes is amended to read:

9 100.45 (3) (b) 2. A person who ~~holds an annual registration certificate under~~
10 sub. (4) (h) is properly trained and certified as specified by the federal environmental
11 protection agency under 42 USC 7671h.

12 **SECTION 3.** 100.45 (3) (c) 4. of the statutes is amended to read:

13 100.45 (3) (c) 4. All of the recovered ozone-depleting refrigerant is conveyed in
14 a safe and timely manner to a refrigerant reclamation facility that is recognized by
15 the department or to a person who ~~holds an annual registration certificate under sub.~~

1 ~~(4) (h) for recycling and reuse or resale~~ is properly trained and certified as specified
2 by the federal environmental protection agency under 42 USC 7671h.

3 ^x
SECTION 4. 100.45 (4) (d) of the statutes is amended to read:

4 100.45 (4) (d) The individuals who use the equipment under par. (c) have the
5 ~~qualifications established under sub. (5) (a) 2.~~ been properly trained and certified as
6 specified by the federal environmental protection agency under 42 USC 7671h.

7 ^x
SECTION 5. 100.45 (4) (h) of the statutes is amended to read:

8 100.45 (4) (h) The person ~~holds an annual registration certificate from the~~
9 ~~department~~ has been properly trained and certified as specified by the federal
10 environmental protection agency under 42 USC 7671h.

11 ^y
SECTION 6. 100.45 (5) (a) 2. of the statutes is repealed.

12 ^j
SECTION 7. 100.45 (5) (c) of the statutes is repealed.

13 ^j
SECTION 8. 100.45 (5m) of the statutes is repealed.

14 (END)

Barman, Mike

From: Sen.Lazich
Sent: Tuesday, January 21, 2014 2:42 PM
To: LRB.Legal
Subject: Draft Review: LRB -2665/1 Topic: Certifications regarding mobile air conditioners

Please Jacket LRB -2665/1 for the SENATE.