



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: March 24, 2014

TO: The Honorable Mike Ellis
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 211, West, State Capitol
PO Box 8952
Madison, WI 53708-895

FROM: Ben Brancel, Secretary
Department of Agriculture, Trade and Consumer Protection

**SUBJECT: Mobile Air Conditioners; Reclaiming and Recycling Refrigerant,
ch. ATCP 136; Final Draft Rule (Clearinghouse Rule #13-107)**

Introduction

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) is transmitting this rule for legislative committee review, as provided in ss. 227.19 (2) and (3), Stats. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19 (2), Stats. This rule contains environmental protections related to allowable refrigerants and the handling, disposal, registration and training requirements for business operators and technicians. The proposed rule will eliminate the \$120 annual registration fee for operators of mobile air conditioning businesses, harmonize training requirements with EPA to eliminate duplication, and remove outdated references to statutes that no longer exist.

Background

The existing ATCP 136 establishes requirements for buying, selling, reclaiming and recycling ozone depleting refrigerants. The requirements are consistent with those under federal law. The rule also 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

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rule requires businesses to register their mobile air service technicians and technicians to successfully complete a department-approved training course or satisfy other training requirements.

Prior to 2011, Wisconsin was the only state where the sale of small cans of substitute, non-ozone depleting refrigerant was prohibited. In 2011, the Legislature modified s. 100.45, Stats., to allow the sale of these products. One result of the law change was that the Wisconsin specific training became redundant with the EPA required training. Mobile air conditioner repair businesses also report they have lost business to do it yourselves who can now purchase supplies to make the repairs themselves.

The proposed rule is identical to the emergency rule that was signed by the Secretary and will remain in effect until May 30, 2014.

Rule Content

This proposed rule does all of the following:

- Eliminates the mobile air conditioner repair business \$120 annual registration fee. Surcharge fees are maintained.
- Modifies mobile air conditioner repair technician training requirements.
- Removes references to obsolete Department of Safety and Professional Services (DSPA) licensing requirements.

DATCP proposes to eliminate the \$120 annual registration fee and streamline the training requirements currently required under this rule. These modifications will harmonize DATCP's rule with federal law and reduce overall regulatory burdens. The proposed rule also removes references to obsolete DSPA licensing requirements and makes other minor modifications needed to ensure uniformity between the statute and rule. Surcharge fees for operating without a registration are required under s. 100.45(5m), Stats., and are not affected by this rule change.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of the Economic Impact Analysis

This rule will not have a significant fiscal impact on state government and DATCP will absorb any costs with current budget and staff because food processing plants are already regulated by DATCP. This rule will have no fiscal effect on local governments or public utility rate payers. To determine the potential economic impact of the rule, the department posted the rule on the website and contacted appropriate organizations to solicit information and advice from businesses, business sectors, associations, local governmental units, and individuals that may be affected by the proposed rule.

Effect on Small Business

This proposed rule eliminates registration fees and modifies training requirements. Businesses will benefit from the reduction in fee and training expenses. The rule would save approximately 3,500 businesses a \$120 annual registration fee for a total savings of about \$420,000 each year. In addition, the 11,000 technicians who register annually with the department would be able to use their EPA approved training course to meet Wisconsin's training requirements. This cost savings is indeterminate, but would save technicians and businesses both training registration fees and time away from their jobs. This rule will not have a negative effect on small business.

Small Business Regulatory Review Report

The Small Business Regulatory Review Board did not issue a report on this rule.

Public Hearings

DATCP held one public hearing on the following date and location:

January 21, 2014 Madison

Following the public hearings, the hearing record remained open until January 24, 2014 for additional written comments. No persons attended the public hearing or submitted comments on the proposed final draft rule.

Changes from the Hearing Draft

The rule was revised to make minor formatting changes required by the Legislative Clearinghouse in its report to the agency.

Summary of Factual Data and Analytical Methodologies

The DATCP Weights and Measures Bureau administers Wisconsin's mobile air conditioning registration program. In 2013, 3,500 operators of mobile air conditioning repair businesses registered with DATCP. At a cost of \$120 per registration, the cumulative cost for these businesses to register with the state was \$420,000. In addition, the DATCP collected another \$7,000 in statutorily required surcharge fees on late registrations. These businesses also registered and submitted Wisconsin required training credentials for 11,000 mobile air conditioning repair technicians.