

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Flammable, Combustible, and Hazardous Liquids

Adm. Code Reference: ATCP 93

Rules Clearinghouse#:

DATCP Docket#:

Rule Summary

This rule implements Wis. Stat. § 168.23 (1), which directs the Department of Agriculture, Trade and Consumer Protection (DATCP) to promulgate rules related to construction, maintenance, and abandonment standards applicable to tanks for storage, handling or use of liquids that are flammable or combustible or are federally regulated hazardous substances, and to the property and facilities where the tanks are located. The proposed rule:

- Updates standards incorporated by reference;
- Resolves 2017 Wisconsin Act 108 issues; and
- Addresses form management concerns.

Small Business Affected

This rule is anticipated to have a minimal impact on small businesses within the state. The majority of proposed modifications serve mainly to update and organize provisions in the current rule.

For the sake of compliance and enforcement ease, the proposed ATCP 93 retains references to specific form identification numbers within the rule itself. It leaves the references in the Notes section that explain how to obtain the forms. Therefore, small businesses should continue to know which forms should be used by consulting the rule itself.

The proposed ATCP 93 incorporates by reference approximately 75 standards established by recognized technical societies, as indicated in tables listed in s. 200. Depending upon the nature of the entity, a business may need to bear the cost of purchasing the copyrighted document in which a given standard is published. However, businesses will only need to purchase those publications applicable to their particular needs. Because EPA regulations also incorporate many of the same standards, most business entities already bear this cost. Should all updated standards be purchased, an entity should expect to pay \$7,789 plus shipping and handling costs. Therefore, since the State of Wisconsin must purchase two sets, one for its own use and one for the Legislative Reference Bureau, the state will pay at least \$15,578 plus shipping and handling.

Fees have not been changed in the proposed new version of ATCP 93.

Reporting, Bookkeeping and other Procedures

Like the current rule, the proposed rule continues to require certain types of reporting and

record keeping that are associated with the testing of these tanks and tank systems. Form identification numbers will continue to be listed in the rules and the Notes section will explain how to obtain forms.

As previously mentioned, many small businesses or business organizations will decide to purchase some of the standards-related publications that are indicated in the tables in Section 200.

Professional Skills Required

As this makes minor changes, businesses should not need additional professional skills.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” DATCP expects to receive ongoing inquiries concerning the interpretation and enforcement of the rule and will devote resources to fielding those inquiries. Reference copies of all standards are available for inspection at the Legislative Reference Bureau and at DATCP.

Conclusion

This proposed rule will likely benefit businesses, including small businesses. Negative impacts, if any, will be few and limited. Accordingly, the proposed rule is not subject to the delayed small business effective date provided in Wis. Stat. § 227.22 (2) (e).

Dated this __17th__ day of January, 2024.

STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By ___ Michelle Reinen, Administrator
Division of Trade and Consumer Protection