



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #140

### **Ozone-Depleting Refrigerants Positions (Agriculture, Trade and Consumer Protection)**

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#### **CURRENT LAW**

The statutes contain several restrictions and requirements on the sale, use or handling of ozone-depleting refrigerants (ODRs) in mobile air conditioners, such as those in automobiles or refrigerated trucks and trailers. The statutes also require automobile servicers to be trained, in accordance with federal provisions, on the proper containment and recovery of ODRs during the servicing of mobile air conditioners. The Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for administering the statutory provisions, and DATCP has promulgated administrative rule ATCP 136 to further specify certain standards and provisions for the program. In 2014-15, the DATCP is authorized 6.05 positions and program revenues (PR) of \$470,400 for carrying out its ODR regulatory responsibilities.

These functions are under the jurisdiction of the DATCP Bureau of Weights and Measures (BWM), which also conducts: (a) inspections for the accuracy of weighing and measuring devices in commercial use in Wisconsin, including motor vehicle fuel pumps, retail scales and price scanners, and other large commercial or industrial scales or meters; and (b) inspection of petroleum storage tanks and delivery systems, as well as testing the content of petroleum products. DATCP created BWM following 2013 Act 20, which transferred petroleum product testing and petroleum system inspections from the Department of Safety and Professional Services (DSPS). DATCP subsequently merged the petroleum systems inspectors with existing DATCP weights and measures staff, and inspectors are trained to conduct inspections in both regulatory areas.

#### **GOVERNOR**

No provision.

## DISCUSSION POINTS

1. The DATCP ODR regulatory program has been subject to multiple statutory and administrative rule changes since 2012. Notably, a \$120 annual registration fee and other related surcharges imposed on servicers that handle ODRs have been effectively removed beginning in 2014. The annual registration fee was the primary revenue source for the DATCP appropriation supporting the program, generating about \$420,000 PR annually.

2. The DATCP ODR regulation PR appropriation began the 2013-15 biennium with a balance of \$249,100. However, minimal program revenues (\$12,300 in 2013-14 only) have been realized thus far in 2013-15 due to the statutory and administrative rule changes. Although the statutes still contain allowances for DATCP to assess fees for costs of administering the program, DATCP is in the process of making permanent revisions to administrative rule ATCP 136 that would repeal all current fees. Table 1 shows the condition of the ODR regulation PR appropriation through 2013-14. DATCP anticipates expending the remaining \$102,000 by June 30, 2015.

**TABLE 1**

### **DATCP Ozone-Depleting Refrigerants Regulation Appropriation Condition**

	Actual <u>2011-12</u>	Actual <u>2012-13</u>	Actual <u>2013-14</u>
Opening Balance	\$261,400	\$377,200	\$249,100
Revenues	448,700	451,300	12,300
Expenditures	- 297,900	- 344,400	- 159,400
Transfers	<u>- 35,000</u>	<u>- 235,000</u>	<u>0</u>
Closing Balance	\$377,200	\$249,100	\$102,000

3. Currently authorized positions in the ODR appropriation include: (a) 3.0 weights and measures/petroleum system specialists; (b) 1.0 regulatory specialist; (c) 1.0 operations program associate; (d) 0.5 license/permitting program specialist; (e) 0.35 weights and measures field program chief; and (f) a portion (0.2 position) of the Division of Trade and Consumer Protection division administrator, of which BWM is a part. As of May 1, 2015, all positions were filled.

4. In 2013-14, DATCP reallocated \$201,000 in salary and fringe benefit costs that otherwise would have been expended from the ODR regulation appropriation. DATCP instead transferred these costs to a BWM appropriation for petroleum product and storage tank inspection, funded by the segregated (SEG) petroleum inspection fund.

5. DATCP reports it plans to submit a 14-day passive-review request for the Committee's consideration in the near future, but has not completed the request. DATCP is expected to propose to effectively transfer 6.05 positions from the ODR regulation appropriation to another PR appropriation for weights and measures regulation. The appropriation DATCP has identified to receive the ODR-related positions is funded primarily by: (a) license fees on persons operating

weighing and measuring devices; (b) a 2¢ fee on each ton of fertilizer or commercial animal feed sold in Wisconsin; (c) charges for services provided by the state metrology laboratory; and (d) service charges assessed to municipalities that are required by statute to conduct weights and measures inspection in their jurisdictions, but that have elected to procure those services under contract with DATCP. The weights and measures PR account condition is shown in Table 2.

**TABLE 2**

**DATCP Weights and Measures Regulation Appropriation Condition**

	Actual <u>2012-13</u>	Actual <u>2013-14</u>	Estimated <u>2014-15</u>	Bill <u>2015-16</u>
Opening Balance	\$566,300	\$926,700	\$1,536,000	\$1,855,800
Revenues	1,689,800	1,726,300	1,700,000	1,700,000
Expenditures	- 1,224,100	- 1,011,700	- 1,274,900	- 1,429,800
General Fund Transfers	<u>- 105,300</u>	<u>- 105,300</u>	<u>- 105,300</u>	<u>- 105,300</u>
Closing Balance	\$926,700	\$1,536,000	\$1,855,800	\$2,020,700

6. As there are insufficient balances and revenues to continue funding the positions authorized for the ODR regulatory program, the Committee could consider deleting the positions and \$525,100 PR annual base funding for the appropriation [Alternative 1]. Under such an alternative, DATCP and the administration would still be able to request PR position authority under the passive-review process. However, deleting filled positions without specifying a substitute funding source could risk layoff of incumbents if no substitute sources were found prior to the deletion taking effect.

7. Consideration could be given to deleting expenditure authority for ODR regulation and: (a) transferring 6.05 positions with \$427,400 to weights and measures PR, consistent with DATCP's intention [Alternative 2]. Such an alternative would result in net PR reductions of \$97,700 annually, associated mostly with supplies and services. Although the weights and measures PR account has a substantial balance, transferring all 6.05 additional positions would put the account into structural imbalance with \$1.7 million in revenues shown in Table 2 and \$1.85 million annual appropriation under Alternative 2.

8. The Committee also could consider dividing existing positions among weights and measures PR and petroleum inspection SEG, which are the primary fund sources for BWM operations. Consideration could be given to transferring: (a) 2.05 positions to petroleum inspection SEG with associated funding of \$162,100; and (b) 4.0 positions to weights and measures PR with associated funding of \$265,300 [Alternative 3]. Dividing the current positions could spread ongoing BWM costs more equally among the Bureau's primary fund sources. Also, transferring program costs to petroleum inspection SEG would be consistent with DATCP reallocating costs in 2013-14, while additional obligations on weights and measures PR would be more aligned with expected revenues. The Committee also could delete \$162,100 petroleum inspection SEG annually from supplies and services to offset the costs of positions added.

9. If the Committee adopted Alternatives 1, 2, or 3, it could consider also deleting 1.0 vacant weights and measures/petroleum system inspector in the petroleum inspection SEG appropriation, and associated costs of \$62,000 SEG annually [Alternative 4]. Eliminating a current vacancy would further reduce ongoing obligations of the petroleum inspection fund, and offset some of the additional positions under Alternative 2 or 3. On the other hand, one could argue that as DATCP's weights and measures/petroleum system inspectors under 2013 Act 20 are fewer than the combined DATCP-DSPS total prior to 2013 Act 20, reducing positions further may reduce DATCP's ability to conduct weights and measures and petroleum-related inspections at current frequencies. Also, the position became vacant in April, 2015, and DATCP expects it would seek to fill the position in the near future.

10. The Committee also could take no action [Alternative 5]. ODR regulation PR positions would remain authorized, and DATCP and the administration could still proceed with a passive review request to adjust PR position totals.

## ALTERNATIVES

1. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants and servicers of mobile air conditioners.

ALT 1	Change to Bill	
	Funding	Positions
PR	- \$1,050,200	- 6.05

2. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants, and provide \$427,400 PR annually with 6.05 positions under the DATCP PR appropriation for weights and measures regulation.

ALT 2	Change to Bill
PR	- \$195,400

3. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants, and provide the following: (a) \$162,100 petroleum inspection SEG annually with 2.05 positions; and (b) \$265,300 weights and measures PR with 4.0 positions. Additionally, delete \$162,100 petroleum inspection SEG from supplies and services.

ALT 3	Change to Bill	
	Funding	Positions
PR	- \$519,600	- 2.05
SEG	<u>324,200</u>	<u>2.05</u>
Total	- \$195,400	0.00

4. In addition to Alternatives 1, 2, or 3, delete \$62,000 petroleum inspection SEG annually with 1.0 vacant position.

<b>ALT 4</b>	<b>Change to Bill</b>	
	Funding	Positions
SEG	- \$124,000	- 1.00

5. Take no action. (The Committee could defer action on the issue to an expected DATCP passive review request for position adjustments.)

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