

Fiscal Estimate Narratives

DATCP 1/9/2024

LRB Number	23-3382/1	Introduction Number	SB-0746	Estimate Type	Original
Description petroleum products, storage of dangerous substances, and granting rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes changes involving the Department of Agriculture, Trade and Consumer Protection (DATCP) regulation of petroleum products and the storage of dangerous substances. Under current law, DATCP regulates and promulgates rules addressing the installation, maintenance, and abandonment of storage tanks that contain flammable or combustible liquids or federally regulated hazardous substances. Current law also authorizes DATCP to make inspections and conduct investigations involving petroleum products.

This bill clarifies budget authority provided in 2013 Wisconsin Act 20 by making it statutory authority and codifies the existing rulemaking authority in Wis. Admin. Code Ch. ATCP 93 which governs flammable, combustible, and hazardous liquids. Also, the bill updates and modernizes definitions. None of the changed definitions should impact the costs of the storage tank inspection program.

This bill modifies a current exemption from DATCP regulation for aboveground storage tank systems containing a liquid that is flammable or combustible or that is a hazardous substance. Current law exempts aboveground storage tank systems that have a capacity of less than 5,000 gallons from regulation by DATCP. This bill modifies the aboveground storage tank system exemption to those having less than 110 gallons, having a capacity of less than 1,100 gallons and is installed at a fleet vehicle motor fuel dispensing facility or is used to store certain types of liquids, is a portable tank, or is an asphalt plant tank.

Additionally, the bill defines "regulated product" as a liquid that is a substance derived from petroleum, natural gas, or asphalt deposits or a liquid that is a federally regulated hazardous substance or regulated by certain other federal regulations. The bill specifies certain rulemaking and that DATCP may establish fees by rule for fuel quality inspections and investigations. The bill also specifies that DATCP may promulgate fire safety rules for the storage and handling of flammable, combustible, or hazardous liquids and clarifies that, upon request of DATCP, the Department of Justice or proper district attorney shall prosecute actions to enforce the storage tank statutes and rules.

This bill also requires DATCP to maintain an inventory of storage tanks containing regulated products with capacity of at least 110 gallons for aboveground and 60 gallons for underground. Currently DATCP is required to maintain an inventory for aboveground and underground storage tanks with capacity at least 60 gallons. Therefore, there is an inventory that already exists. The costs to do this can be absorbed with existing agency resources. This change will make the inventory consistent with industry standards and be consistent with the tanks DATCP regulates.

Aboveground storage tank systems between 110 and 5,000 gallons had been regulated for decades under the tanks inspection program, previously housed in various state agencies. The program transferred to DATCP in 2013. A review of DATCP's regulatory powers pursuant to 2017 Wisconsin Act 108 resulted in DATCP's determination that only aboveground storage tanks storing above 5,000 gallons could be regulated under Wisconsin state statute. Aboveground storage tank systems below 5,000 gallons represent over 18,000 tank systems in the state. This bill would return to regulation what occurred for decades previously. The agency can absorb the increased cost of these inspections with existing agency resources. Under the bill, it is also authorized for DATCP to contract for these inspections. Any contracting costs would be absorbed by existing agency resources also.

It is anticipated that additional revenues will be collected from the addition inspections that would take place if this bill were to pass. Revenue is estimated to be approximately \$86,500 annually. These revenues would be deposited into the Environmental Fund.

Long-Range Fiscal Implications

This will depend on the number of inspections conducted, violations found, and complaints investigated under

the provisions in the bill. It is possible, depending on the workload, additional funding and positions could be needed in the future.