

1 Report From Agency

DATCP Docket No. 12-R-11
Rules Clearinghouse No. 13-043

Proposed Final Draft
August 28, 2013

**PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

2 The Wisconsin department of agriculture, trade and consumer protection proposes the following
3 *to repeal* ATCP 113.02, *to amend* ATCP 90.01 (26), 91.01 (4) and (Note), 91.03 (3) (k) and (L),
4 the prefatory note to Ch. ATCP 92, 92.01 (15), 92.02 (1) and (Note), 92.06 (1) (a) and (b) and
5 (2), 92.20 (2) (d) (Note), 92.21 (2) (b) (Note) and (4) (Note), 92.22 (1) (b) and (Note), 92.30 (1)
6 (c) and (d) (Note), (3) (e) 2., and (6) (title) and (c) (Note), 92.31 (2) (d) (Note), 92.43 (2) (Note),
7 92.50 (2) (b) (Note) and (3) (d), 113.01 (1) and (3), 136.10 (1), 136.12 (3) (e); *to repeal and*
8 *recreate* ATCP 136.02 (4) (Note), 136.08 (7) (Note) and *to create* ATCP 136.01 (11m), 136.12
9 (3) (f) and (g), and 136.14 (1) (c) ; *relating to* fair packaging and labeling; selling commodities
10 by weight, measure or count; weights and measures; gasoline advertising; and mobile air
11 conditioners, reclaiming or recycling refrigerant; various minor and technical rule changes; and
12 affecting small business.

**Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection**

This rule makes minor and technical changes to a number of current rules administered by the department of agriculture, trade and consumer protection (“DATCP”).

Statutes Interpreted

Statutes Interpreted: s. 97.03, Ch. 98, ss. 100.20 and 100.45, Stats.

Statutory Authority

Statutory Authority: ss. 93.07(1), 97.09(1) and (4), 97.42 (4) (j), 98.03 (2), 98.07 (3) and (4), 98.16 (4), 98.18 (2), 98.224 (4), 98.245 (9), 100.20 (2), and 100.45 (5) (a) and (e), Stats.

Explanation of Statutory Authority

DATCP has broad general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction.

DATCP has authority under s. 97.09 (1), Stats., to define or adopt standards of identity, composition, quality and fill of food containers. DATCP has general authority, under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. DATCP has authority under s. 97.42 (4) (j), Stats., to administer inspections of animals, poultry and carcasses.

DATCP has authority under s. 98.03 (2), Stats., to issue rules governing the construction, installation and use of commercial weights and measures and prescribing tolerances. DATCP has authority under s. 98.07 (3) and (4), Stats., to issue rules specifying tolerances for variations from quantities stated on packages. DATCP has authority under s. 98.16 (4), Stats., to regulate the construction, operation, testing, and maintenance of vehicle scales. DATCP has authority under s. 98.18 (2), Stats., to regulate the installation, servicing, testing and certification of weights and measures. DATCP has authority under s. 98.224 (4), Stats., to promulgate rules that establish standards for the construction, operation, and maintenance of vehicle tank meters, and authority under s. 98.245 (9), Stats., to establish standards for liquefied petroleum gas meters.

DATCP has authority under s. 100.20 (2) (a), Stats., to forbid unfair methods of competition and unfair trade practices.

DATCP has authority under s. 100.45 (5) (a), Stats., to promulgate rules establishing standards for recycled refrigerant based on recognized national industry standards, and qualifications for individuals and businesses that service mobile air conditioners. However, s. 100.45 (5e) (b), Stats., prohibits DATCP from promulgating rules that prohibit the sale of refrigerant that is a substitute for ozone-depleting refrigerant in a container holding less than 15 pounds.

Related Statutes and Rules

This proposed rule updates a number of existing rule chapters and is related to several statutes and rules.

Chapter ATCP 90, Fair Packaging and Labeling, requires certain information be included on product labels. This rule is related to ch. 97 Food Regulation and ch. 98 Weights and Measures, Stats.

Chapter ATCP 91, Selling Commodities by Weight, Measure or Count, regulates how a seller communicates quantity of product to the buyer. This rule is related to ch. 98, Stats., Weights and Measures.

Chapter ATCP 92, Weights and Measures, regulates the accuracy of scales, tank meters, and other measuring devices. It contains license or certification programs for devices, technicians and service companies. This rule is related to Ch. 98, Stats., Weights and Measures.

Chapter ATCP 113, Gasoline Advertising, prohibits gasoline sellers from misrepresenting the octane rating of gasoline. This rule is promulgated under s. 100.20, Unfair Trade Practices, Stats. Gasoline octane is also regulated under Ch. 168, Stats., Oil Inspection, and ch. SPS 348, Petroleum and Other Liquid Fuel Products.

Chapter ATCP 136, Mobile Air Conditioners; Reclaiming or Recycling Refrigerant, regulates the repair or service of motor vehicle air conditioners and trailer refrigeration equipment. This rule relates to s. 100.45, Stats., Mobile Air Conditioners.

Plain Language Analysis

Rule Content

General

This rule modifies existing rules with a number of technical updates and minor changes. It does not represent any significant shift in the overall goals or policies of the existing rules.

Chapter ATCP 90 - Fair Packaging and Labeling

Under current rules, the definition of “unreasonable shortage” as it relates to Fair Packaging and Labeling, refers to the maximum allowable variation specified for a commodity in the National Institute of Standards and Technology (NIST) Handbook 133, “Checking the Net Contents of Packaged Goods.” However, the current rule does not specify which edition of NIST Handbook 133 it is referencing. This rule modifies the definition of “unreasonable shortage” to specifically reference NIST Handbook 133, “Checking the Net Contents of Packaged Goods,” (2013 edition).

Chapter ATCP 91 - Selling Commodities by Weight, Measure or Count

The current rule lists a number of commodities and incorporates references to NIST Handbook 130, “Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality,” (2011 edition). This rule updates these references to the 2013 Edition. It also corrects references to specific sections (in the case of liquid oxygen used for respiration and liquefied petroleum gases).

Chapter ATCP 92 - Weights and Measures

The current rule regulates weighing and measuring devices, state and municipal inspection programs, and licensing requirements for service companies. The current rule incorporates references to NIST Handbook 44, “Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices,” (2011 edition). This rule updates these references to the 2013 Edition.

The current rule contains several “notes” informing the reader how to obtain license applications and similar documents from DATCP. This rule updates these notes to conform to changes in DATCP web pages and other changes.

Chapter ATCP 92, Subchapter IV regulates vehicle scales and livestock scales. However, there are some significant differences between the two. Installing or relocating a vehicle scale requires a permit from DATCP. DATCP also collects installation reports for vehicle scales, and reviews request for variances on the construction standards contained in the rule. This rule clarifies that there is no need for operators to request variances for livestock scales (because there is no permit requirement and they are not required to submit their construction plans).

This rule also modifies the definition of “vehicle scale” to make it clear that ch. ATCP 92 does not apply to scales that are not in commercial service.

Chapter ATCP 113 - Gasoline Advertising

The current rule affirms that it is an unfair trade practice for sellers of gasoline to mislead buyers regarding the octane rating of gasoline, claim that the gasoline is suitable for aviation if it is not, or claim the gasoline is of greater value because it contains high octane components without clearly stating the octane value of the total product. The current rule references octane standards contained in “ASTM Manual for Rating Motor Fuels by Motor and Research Methods”, published 1956.

This rule replaces the references to ASTM standards with references to ch. SPS 348 – Petroleum and Other Liquid Fuel Products. Pursuant to the 2013-15 Budget Bill; DATCP now administers this chapter of the administrative code; as part of the petroleum inspection program that was transferred from the Department of Safety and Professional Services to DATCP.

Chapter ATCP 136 - Mobile Air Conditioners; Reclaiming or Recycling Refrigerant

Pursuant to s. 100.45, Stats., DATCP regulates the use of refrigerants in mobile air conditioners. Under the current rule, among other things, no person may buy, sell or consign refrigerant in a container holding less than 15 pounds (this is sometimes informally referred to as the “small can ban”). However, 2011 Wisconsin Act 187 restricts DATCP’s authority to prohibit sales of non-ozone-depleting refrigerants. Therefore, under the proposed rule, only ozone depleting refrigerants are prohibited from being sold in containers less than 15 pounds.

The current rule regulates the types of equipment that can be used to reclaim or recycle

refrigerants from mobile air conditioners. Recently, the Environmental Protection Agency (“EPA”) has approved a new type of refrigerant (“HFO-1234fy”). This rule updates the current rule to recognize the new product and associated specifications and equipment standards.

Summary of, and comparison with, existing or proposed federal statutes and regulations.

This rule updates references to weights and measures technical standards published by the National Institute of Standards and Technology (“NIST”). By incorporating the latest NIST standards, this rule keeps Wisconsin standards consistent with applicable national standards.

The fuel octane standards incorporated by reference by this rule into ch. ATCP 113 are identical to standards used by the EPA to regulate fuel quality.

This rule update’s Wisconsin’s mobile air conditioner rules to conform to the most recent EPA standards.

Comparison with rules in adjacent states

Generally, this rule updates standards incorporated by reference contained in several chapters of the Wisconsin Administrative Code. Most states, including all of Wisconsin’s neighbors, recognize the same accepted standards in their statutes and rules.

This rule brings Wisconsin’s rules relating to mobile air conditioning refrigerants into conformity with neighboring states’ rules.

Summary of Factual Data and Analytical Methodologies

This rule does not depend on any complex analysis of data. This rule makes minor or technical changes to current rules.

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

This rule simply updates references and makes other technical changes to existing rules and does not make significant changes to existing policies. Therefore, this rule is not anticipated to have an economic impact.

Effect on Small Business

This rule updates references to technical standards to the most recent editions of those standards without significant changes. This rule simply continues policies already in place in current rules or updates rules to conform to recent changes in the statutes. Except as noted below, this rule does not have an effect on small businesses.

Chapter ATCP 113 – Gasoline Advertising, updating references to most recent standards may increase the enforceability of the rule. Chapter ATCP 113 relies on nationally recognized

standards for octane rating published by ASTM. However, the current rule relies on standards that are outdated and is, therefore, difficult to enforce. Updating the standards, as proposed in this rule, will improve the enforceability. By making it easier to punish any business that might mislead consumers about the octane rating or value, this rule should benefit honest sellers of gasoline.

This rule will benefit businesses that service mobile air conditioners. Under this rule, these businesses can service units that require the new refrigerant HFO-1234yf. This product was only recently approved by EPA.

Environmental Impact

This rule does not have an environmental impact.

Standards Incorporated by Reference

This rule incorporates, by reference, the following standards:

- Air Conditioning, Heating and Refrigeration Institute (AHRI)
 - AHRI 740-1998 Refrigerant Recover / Recycling Equipment.
- ASTM International
 - ASTM D4814-12 Standard Specifications for Automotive Spark-Ignition Engine Fuel.
 - ASTM D2699-12 Standard Test Method for Research Octane Number of Spark Ignition Engine Fuel.
 - ASTM D2700-12 Standard Test Method for Motor Octane Engine Fuel.
- NIST (National Institute of Standards and Technology), 2013 editions:
 - Handbook 44, Specifications, Tolerances, and other Technical Requirements for Weights and Measures.
 - Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality.
 - Handbook 133, Checking the Net Contents of Packaged Goods.
- SAE International
 - SAE J2843-2013 (R-1234fy (HFO1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems).
 - SAE J2851-2012 (Recovery Equipment for Contaminated Refrigerant from Mobile Automotive Air-Conditioning Systems).

DATCP will request consent from the Attorney General to incorporate these standards by reference. A copy of these documents will be kept on file with DATCP and the Legislative Reference Bureau. NIST publications are also available online at <http://www.nist.gov/index.html>. SAE International publications are also available online at <http://www.sae.org>. ASTM International publications are available online at <http://www.astm.org>. AHRI publications are available online at <http://www.ahrinet.org>.

DATCP Contact

Kevin LeRoy
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone (608) 224-4928
E-Mail: kevin.leroy@wisconsin.gov

Place Where Comments are to be Submitted and Deadline for Submission

Questions and comments related to this rule may be directed to:

Kevin LeRoy
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone (608) 224-4928
E-Mail: kevin.leroy@wisconsin.gov

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule. DATCP held one hearing on this rule, on August 7, 2013.

-
- 1 **SECTION 1.** ATCP 90.01 (26) is amended to read:
- 2 ATCP 90.01 (26) “Unreasonable shortage” means a shortage that exceeds the maximum
- 3 allowable variation specified for a commodity in the national institute of standards and
- 4 technology handbook 133, “Checking the Net Contents of Packaged Goods,” 2013 edition.
- 5 **SECTION 2.** ATCP 91.01 (4) and (Note) are amended to read:
- 6 ATCP 91.01 (4) “NIST Handbook 130” means *NIST Handbook 130 (2011 2013 edition)*
- 7 published by the national institute of standards and technology, United States department of
- 8 commerce.

1 **Note:** Copies of NIST Handbook 130 (~~2009~~ 2013 edition) are on file with the
2 department and the legislative reference bureau. Copies may be obtained from
3 the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-
4 0001, website www.nist.gov.

5 **SECTION 3.** ATCP 91.03 (3) (k) and (L) are amended to read:

6 ATCP 91.03 (3) (k) *Liquid oxygen used for respiration.* Commodities covered by *NIST*
7 *Handbook 130*, ch. IV.B, section 2.22, shall be sold in compliance with that section.

8 (L) ~~LP gas~~ *Liquefied petroleum (LP) gases.* Commodities covered by NIST Handbook
9 130, ch. ~~IV.B, section 2.21~~ IV.G, section 2.8, shall be sold in compliance with that section.

10 **SECTION 4.** Chapter ATCP 92 Prefatory Note relating to statutory authority is amended
11 to read:

12 **Note:** This chapter is adopted under authority of ss. 93.07 (1), 93.15 (1), 98.03 (2), ~~98.16~~
13 ~~(3)~~, 98.16 (4), 98.18 (1h) and (2), and 100.20 (2), Stats. Violations of this chapter
14 are subject to the penalties and remedies provided under ss. 98.16, 100.20 (5) and
15 (6), and 100.26 (3) and (6), Stats.

16 **SECTION 5.** ATCP 92.01 (15) is amended to read:

17 ATCP 92.01 (15) “Vehicle scale” means a commercial scale designed or used to weigh
18 loaded or unloaded highway, farm, or industrial vehicles, and includes above-ground scales,
19 dump scales, and portable scales. “Vehicle scale” does not include a railway scale used
20 exclusively for the weighing of commodities on railroad track vehicles.

21 **SECTION 6.** ATCP 92.02 (1) and (Note) are amended to read:

22 ATCP 92.02 (1) Except as provided in this chapter, weighing and measuring devices
23 shall comply with applicable specifications, tolerances and other technical requirements set forth
24 in the national institute of standards and technology handbook 44 (specifications, tolerances and
25 other technical requirements for weighing and measuring devices), ~~2011~~ 2013 edition.

26 **NOTE:** See s. 98.03 (2), Stats. The ~~current~~ 2013 edition of the National Institute of
27 Standards and Technology Handbook 44 (Specifications, Tolerances and Other
28 Technical Requirements for Weighing and Measuring Devices) is on file with the

1 department and the legislative reference bureau. Copies may be purchased from
2 the U.S. Government Printing Office, Superintendent of Documents, P.O. Box
3 371954, Pittsburgh, PA 15250-7954. Excerpts can be viewed at
4 <http://www.nist.gov/index.html>.

5 **SECTION 7.** ATCP 92.06 (1) (a) and (b), and (2) are amended to read:

6 ATCP 92.06 (1) (a) The national institute of standards and technology handbook 44
7 (specifications, tolerances, and other technical requirements for weighing and measuring
8 devices), ~~2011~~ 2013 edition.

9 (b) The national institute of standards and technology handbook 133 (checking the net
10 contents of packaged goods), ~~2011~~ 2013 edition.

11 (2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall comply
12 with section 7 “test procedures” from the chapter titled “examination procedure for price
13 verification,” national institute of standards and technology handbook 130 (uniform laws and
14 regulation in the areas of legal metrology and engine fuel quality), ~~2011~~ 2013 edition.

15 **SECTION 8.** ATCP 92.20 (2) (d) (Note) is amended to read:

16 ATCP 92.20 (2) (d) **Note:** You may obtain application forms at
17 http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_m
18 [easures.jsp http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or
19 by writing to:

20
21 Wisconsin Department of Agriculture, Trade and Consumer Protection
22 Division of Trade and Consumer Protection
23 Weights & Measures Program
24 P.O. Box 8911
25 Madison, WI 53708-8911

26 **SECTION 9.** ATCP 92.21 (2) (b) (Note) is amended to read:

27 ATCP 92.21 (2) (b) **Note:** You may obtain application forms at
28 http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_m
29 [easures.jsp http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by
30 writing to:

31
32 Wisconsin Department of Agriculture, Trade and Consumer Protection
33 Division of Trade and Consumer Protection

1 Weights & Measures Program
2 P.O. Box 8911
3 Madison, WI 53708-8911

4 **SECTION 10.** ATCP 92.21 (4) (Note) is amended to read:

5 ATCP 92.21 (4) **Note:** Currently, the Central Weights and Measures Association
6 provides examinations in the following device categories: HB44 general code,
7 retail computing scales, medium capacity scales, livestock scales, vehicle scales,
8 railroad track scales, belt conveyor scales, retail motor fuel dispensers, vehicle
9 tank meters, LPG meters, loading rack meters, and agricultural chemical and mass
10 flow meters.

11 **SECTION 11.** ATCP 92.22 (1) (b) and (Note) are amended to read:

12 ATCP 92.22 (1) (b) Comply with applicable requirements contained in the national
13 institute of standards and technology handbook 44 (specifications, tolerances, and other technical
14 requirements for weighing and measuring devices), ~~2011~~ 2013 edition.

15 **Note:** The national institute of standards and technology handbook 44 (specifications,
16 tolerances, and other technical requirements for weighing and measuring devices)
17 ~~2011~~ 2013 edition, is on file with the department and the legislative reference
18 bureau. You may purchase copies of this handbook from the U.S. Government
19 Printing Office, Superintendent of Document Sales, P.O. Box 371954, Pittsburgh,
20 PA 15250-7954.

21 **SECTION 12.** ATCP 92.30 (1) (c) and (d) (Note), (3) (e) 2., and (6) (title) and (c) (Note)

22 are amended to read:

23 ATCP 92.30 (1) (c) An application under par. (b) shall document that the vehicle scale
24 ~~or livestock scale~~ complies with the construction standards in sub. (3).

25 (d) **Note:** A permit application form under sub. (1) (b) may be obtained at
26 http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mes
27 [ures.jsp http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by
28 writing to:

29
30 Wisconsin Department of Agriculture, Trade and Consumer Protection
31 Division of Trade and Consumer Protection
32 Weights and Measures Program
33 P.O. Box 8911
34 Madison, WI 53708-8911
35

1 (3) (e) 2. In every above-ground vehicle scale, there shall be a clearance of not less than
2 6 inches (15 cm) between the top surface of the base slab and the bottom of the load receiving
3 element. This subdivision does not apply to above-ground scales constructed prior to January
4 1, 1992.

5 (6) ~~VEHICLE AND LIVESTOCK~~ SCALES; CONSTRUCTION VARIANCES.

6 (c) **Note:** A variance application form under sub. (6) (b) may be obtained at
7 http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp
8 http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx or by writing to:

9
10 Wisconsin Department of Agriculture, Trade and Consumer Protection
11 Division of Trade and Consumer Protection
12 Weights and Measures Program
13 P.O. Box 8911
14 Madison, WI 53708-8911
15

16 **SECTION 13.** ATCP 92.31 (2) (d) (Note) is amended to read:

17 ATCP 92.31 (2) (d) **Note:** A license application form under sub. (2) (d) may be obtained
18 at
19 ~~http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp~~ http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx or by
20 ~~writing to:~~
21 writing to:
22

23 Wisconsin Department of Agriculture, Trade and Consumer Protection
24 Division of Trade and Consumer Protection
25 Weights and Measures Program
26 P.O. Box 8911
27 Madison, WI 53708-8911
28

29 **SECTION 14.** ATCP 92.43 (2) (Note) is amended to read:

30 ATCP 92.43 (2) **Note:** An application form under sub. (2) may be obtained at
31 ~~http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp~~ http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx or by
32 ~~writing to:~~
33 writing to:
34

35 Wisconsin Department of Agriculture, Trade and Consumer Protection
36 Division of Trade and Consumer Protection
37 Weights and Measures Program
38 P.O. Box 8911
39 Madison, WI 53708-8911
40

1 **SECTION 15.** ATCP 92.50 (2) (b) (Note) and (3) (d) are amended to read:

2 ATCP 92.50 (2) (b) **Note:** An application form under sub. (2) may be obtained at
3 http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_mes
4 [ures.jsp http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by
5 writing to:

6
7 Wisconsin Department of Agriculture, Trade and Consumer Protection
8 Division of Trade and Consumer Protection
9 Weights and Measures Program
10 P.O. Box 8911
11 Madison, WI 53708-8911
12

13 (3) (d) A surcharge of \$200 if the department determines that, within one year prior to
14 submitting the application, the applicant failed to comply with the reporting requirement under
15 ~~sub. (3) s. ATCP 92.52.~~ A surcharge payment under this paragraph does not relieve the
16 applicant of any other civil or criminal liability for violating s. ATCP 92.52, but is not evidence
17 of a violation.

18 **SECTION 16.** ATCP 113.01 (1) and (3) are amended to read:

19 (1) To state or otherwise represent that the gasoline has a specified octane value or rating
20 when such value or rating has been determined by a test method other than one which is
21 ~~recognized by the American Society for Testing Materials International as standard for the~~
22 ~~industry authorized under ch. SPS 348.~~

23 (3) To use any statement, design or device which may induce prospective purchasers to
24 believe that such gasoline is of greater value for motor car use because it contains high octane
25 value components without clearly stating the octane value or rating for the total product
26 advertised, as determined by a method which is recognized by the American Society for Testing
27 Materials International as standard for the industry authorized under ch. SPS 348.

28 **SECTION 17** ATCP 113.02 is repealed:

29 **SECTION 18.** ATCP 136.01 (11m) is created to read:

1 ATCP 136.01 (11m) “Ozone-depleting refrigerant” means a substance used in
2 refrigeration that is or contains a class I substance, as defined in 42 USC 7671 (3) or a class II
3 substance, as defined in 42 USC 7671 (4).

4 **SECTION 19.** ATCP 136.02 (4) (Note) is repealed and recreated to read:

5 ATCP 136.02 (4) **Note:** An application form under sub. (4) may be obtained at
6 http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx or by writing to:

7
8 Wisconsin Department of Agriculture, Trade and Consumer Protection
9 Division of Trade and Consumer Protection
10 Weights and Measures Program
11 P.O. Box 8911
12 Madison, WI 53708-8911
13

14 **SECTION 20.** ATCP 136.08 (7) (Note) is repealed and recreated to read:

15 ATCP 136.08 (7) **Note:** You may obtain a list of approved training programs at
16 http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx or by writing to:

17
18 Wisconsin Department of Agriculture, Trade and Consumer Protection
19 Division of Trade and Consumer Protection
20 Weights and Measures Program
21 P.O. Box 8911
22 Madison, WI 53708-8911
23

24 **SECTION 21.** ATCP 136.10 (1) is amended to read:

25 ATCP 136.10 (1) CONTAINER SIZE; GENERAL. No person may buy, sell or consign
26 refrigerant in a container holding less than 15 pounds of ozone-depleting refrigerant.

27 **SECTION 22.** ATCP 136.12 (3) (e) is amended to read:

28 ATCP 136.12 (3) (e) Equipment used to recover refrigerant other than R-12 ~~or~~ R-134a
29 or HFO-1234yf shall meet or exceed the standards specified by the air conditioning heating and
30 refrigeration institute in “Performance of Refrigerant Recover, Recycling and/or Reclaim
31 Equipment, ARI Standard 740-1993” AHRI 740-1998: Refrigerant Recover/Recycling
32 Equipment.

1 **SECTION 23.** ATCP 136.12 (3) (f) and (g) are created to read:

2 ATCP 136.12 (3) (f) Equipment used to recycle HFO-1234yf refrigerant shall meet or
3 exceed the standards specified by the society of automotive engineers in “R-1234fy (HFO-
4 1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-
5 Conditioning Systems,” SAE J2843-2013.

6 (g) Equipment used to recover but not recycle HFO-1234yf refrigerant shall meet or
7 exceed the standards specified by the society of automotive engineers in “Recovery Equipment
8 for Contaminated Refrigerant from Mobile Automotive Air-Conditioning Systems,” SAE
9 J2851-2012.

10 **SECTION 24.** ATCP 136.14 (1) (c) is created to read:

11 ATCP 136.14 (c) HFO-1234yf refrigerant shall meet or exceed the standards specified by
12 the society of automotive engineers in “R1234fy (HFO-1234yf) New Refrigerant Purity and
13 Container Requirements for Use in Mobile Air-Conditioning Systems,” SAE J2844-2013.

14 **SECTION 25. EFFECTIVE DATE:** This rule takes effect on the first day of the third month
15 following publication in the Wisconsin administrative register, as provided in
16 s. 227.22(2)(intro.), Stats.

17

Dated this _____ day of _____, _____.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: _____
Ben Brancel
Secretary