State of Wisconsin
Governor Scott Walker

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

DATE: January 8, 2016

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary
Karley Downing, Chief Legal Counsel

SUBJECT: **Chs. ATCP 30, 40, 42, 50, 75 Appendix, 90, 91, 92, 93, 94, 105, 127, 134, and 141– Minor and Technical Changes to Multiple Department Chapters; Hearing Draft**

PRESENTED BY: Karley Downing

REQUESTED ACTION:

At the January 19, 2016, Board meeting, the Department of Agriculture, Trade and Consumer Protection (Department) will ask the Department Board to authorize public hearings on a proposed rule (copy attached) related to technical rule changes for the following existing rules: ATCP 30, 40, 42, 50, 75 Appendix, 90, 91, 92, 93, 94, 105, 127, 134, and 141.

SUMMARY:

Rule Content

This rule makes minor or technical changes to a number of current Department rules. This rule does all of the following:

Pesticide Use and Control

Removes date references that are no longer necessary and updates cross references to other Department chapters.

Fertilizer and Related Products

Incorporates by reference the most recent edition of the current rule standard concerning fertilizers.

Commercial Feed

Updates the technical standards in the current rule to the most recent versions and reinserts a paragraph that was inadvertently removed during prior rulemaking.

Soil and Water Resource Management Program

Updates several sections to reference the current versions of technical standards.

Wisconsin Food Code Appendix

Corrects a spelling and spacing error.

Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Flammable, Combustible and Hazardous Liquids;

- Corrects small grammatical errors.
- Updates the technical references to cite the current NIST Handbook and ATSM fuel standards.
- Amends notes to reference website addresses and form numbers.
- Removes obsolete notes.

Petroleum and Other Liquid Fuel Products

Updates the technical references to cite the current NIST Handbook and ATSM fuel standards and amends notes to reference current website addresses and form numbers.

Sales Below Cost

Corrects a grammatical error.

Direct Marketing

Corrects a grammatical error.

Residential Rental Practices

Removes an obsolete note.

Cherry Marketing Order

Removes a note and set of brackets that were added during previous rulemaking to correct the inadvertent removal of language from a subsection.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

The technical rule changes proposed in this rule will not create any disparities between Wisconsin rules and federal statutes and regulations.

Comparison with Rules in Adjacent States

The technical rule changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

Summary of Factual Data and Analytical Methodologies

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

Analysis and Supporting Documents Used to Determine Effect on Small Business

Because this rule makes minor technical changes, no significant analysis or documentation was required to determine that the proposed rule will have no impact on small businesses.

Effect on Business Impact

This rule will not have any impact on small businesses or other business. This rule makes minor technical changes that will not have any impact on business standards, costs, or operations. See the *Initial Regulatory Flexibility Analysis* that accompanies this rule.

Environmental Impact

Since this rule only makes minor technical changes, this rule will have no significant impact on the environment.

Next Steps

If the Board authorizes public hearings on this rule, the Department will refer a copy of the rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the Wisconsin Administrative Register. The Department will hold public hearings on the dates and at the locations specified in the hearing notice. The hearing dates and locations have not yet been determined.

Following the public hearings, the Department will prepare a final draft rule for the Board's consideration. If the Board approves a final draft rule, the Department will seek written approval from the Governor, then transmit that final draft rule to the Legislature for review by appropriate legislative committees. If the

Legislature takes no action to stop the rule, the Secretary will sign the final rulemaking order and transmit it for publication.

DATCP Docket#: 15-R-14 **Proposed Hearing Draft**
Rules Clearinghouse No. **December 23, 2015**

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

The Wisconsin department of agriculture, trade and consumer protection proposes the following order ***to repeal*** ATCP 50.66 (3) (a) 4., 134.04 (3) (Note), 141.04(1) (Note); ***to amend*** ATCP 30.24 (8) (b) 1., 30.31 (4) (a) and (b), 40.08 (8) and (Note), 40.10 (4) (b) 2. and (Note), 40.12 (2) (c) 1. and (Note), 40.18 (2) and (Note), 42.06 (3), 42.16 (1) (b) and (2) (b), 42.32 (2) (b), 42.44 (6) (a) and (6) (b), 42.54 (1) (a), 50.62 (5) (e) 3. and (e) 5., 50.64 (1) (e) and (5) (a), 50.65 (3) (a) 1., 50.66 (3) (a) 1., 50.68 (4) (a), 50.70 (4) (b) 4., 50.705 (5) (a) 4., 50.72 (3) (a) 4., 50.73 (3) (d) 7., 50.76 (5) (a) 2., 3., and 6., 50.77 (4) (a) 6., 50.80 (3) (a) 5. and 8., 50.83 (3) (a) 4., 50.86 (4) (b) 5. and 6., 50.87 (4) (a) 3., 50.88 (3) (a) 5., 50. 885 (4) 9a) 1., 2., and 4., 50.91 (3) 9b) 2. and 5., 50.94 (3) (a) 5., 50. 96 (3) (b) 3., 50.97 (3) (a), 75 appendix 3-201.11(H) (1), 75 appendix 3-202.13, 90.01 (15g) and (Note), and (15r) and (Note), 91.01 (4) and (Note), 92.01 (10h) and (Note), (10p) and (Note), and (10t) and (Note), 92.10 (Title), 93.050 (64) and (117) (Note), 93.100 (1) (a) 4. (Note), 7. and (Note), and (3) (a) 5. d. (Note), 93.115 (2) (b) 2. a. and (Note) and 4. a. and b., 93.130 (4) (c) (Note), 93.140 (2) (b) and (Note), (3) (a) and (Note), (c) 1., (d) and 2., 3., and 4., 93.150 (2) (e) (Note), 93.1605 (table footnote), 93.350 (2) (b), 93.400 (5) (f) and (Note), (6) (c) and (Note), (8) (a) 1. b. and (Note), c., and d., 93.440 (3) (a) 2. c. (Note), 93.465 (1) (b) (Note), 93.515 (2) (d) 2., 93.520 (1) (d) 4. and (Note) and (e) 3. b. (Note), 93.530 (2) (f) 4. and (Note), 93.535 (7), 93.550 (1) (e) and (Note), 93.560 (1) and (Note), (2) (d) and (Note), 93.580 (3) (a) (Note), 93.620 (1) (b) (Note), 93.630 (3) (c) and (Note), 93.630 (Table Title), 93.680 (4) (a) (Note), (b), (c) and (Note), 93.703 (2) (Note), 93.727 (2) (a), 93.745 (2) (j)

3. b. (Note), 93.747 (2) (c) 1. b. (Note), 93.810 (2) and (Note), 93.830 (2) (a) and (b), 93.840 (1), 93.841 (2) (b) 5., 93.870 (Title), 94.110 (3) (Note), 94.200 (1), (a), (b), (c), (d), (e), (f), (g), (h), (j), (k) and (L), 105.009 (4), 127.18 (Title), 127.48 (Title), 127.76 (Title), 127.84 (Title), 141.04 (1); and, ***to repeal and recreate*** ATCP 42.40 (4) (b) and (Note) ; ***relating to*** various minor and technical rule changes.

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

This rule makes minor technical changes to a number of current rules administered by the Department of Agriculture, Trade and Consumer Protection (Department).

Statutes Interpreted

Statutes Interpreted: ss. 91.02, 92.05(3) (c), 93.48(1), 94.01(1), 94.64(9), 94.65(9), 94.69, 94.72(13) (a), 94.73(11), 97.27(5), 98.07(4), 100.20(2), 100.30, 168.16(4) and 168.23, Stats.

Statutory Authority

Statutory Authority: ss. 93.07 (1) and (24)

Explanation of Statutory Authority

The Department has general authority, under s. 93.07(1), Stats., to adopt rules to interpret laws under its jurisdiction. It also has specific rulemaking authority related to various matters addressed by this rule (see above). This rule makes minor changes to a number of different rules administered by the Department. The changes are adopted under the same authority used to adopt the original rules.

Related Rules or Statutes

This rule is not substantially affected by statutes or rules other than those identified in this rule.

Plain Language Analysis

This rule makes minor or technical changes to a number of current DATCP rules. This rule does all of the following:

Pesticide Use and Control

Removes date references that are not necessary anymore and updates cross references to other DATCP chapters.

Fertilizer and Related Products

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Effect on Business Impact

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Environmental Impact

Since this rule only makes minor technical changes, this rule will have no significant impact on the environment.

Agency Contact

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SECTION 1. ATCP 30.24 (8) (b) 1. is amended to read:

ATCP 30.24 (8) (b) 1. A prohibition area is created to include every township quarter-quarter section lying wholly or in part within one mile of a point of standards application at which aldicarb residues have been detected in groundwater at a concentration of 10 ppb or more, based on a reliable groundwater test result received by the division. ~~at any time before or after April 1, 1988. If the reliable groundwater test result was received by the division before April 1, 1988, the prohibition area is created on April 1, 1988. If the reliable groundwater test result is received by the division after April 1, 1988, the~~ The prohibition area is created on the date when the groundwater test result is received by the division. The one mile radius from the point of standards application shall be calculated from the center point of the township quarter-quarter section in which the actual point of standards application is located.

SECTION 2. ATCP 30.31 (4) (a) and (b) are amended to read:

ATCP 30.31 (4) (a) Atrazine product may only be applied by a certified private applicator or by a person who is certified as a commercial applicator in the appropriate pesticide use category under s. ATCP ~~29.16~~ 29.31.

(b) Atrazine product may only be mixed or loaded by a certified private applicator or by a person who is certified as a commercial applicator or mixer-loader in the appropriate pesticide use category under s. ATCP ~~29.16~~ 29.31.

SECTION 3. ATCP 40.08 (8) and (Note) are amended to read:

ATCP 40.08 (8) TERMS AND DEFINITIONS. Terms used in fertilizer labeling shall be consistent with the fertilizer terms and definitions contained in the *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015).

Note: The *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015) is on file with the department and the legislative reference bureau. Copies may be obtained from the treasurer of the Association of American Plant Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at http://www.aapfco.org.

SECTION 4. ATCP 40.10 (4) (b) 2. and (Note) are amended to read:

ATCP 40.10 (4) (b) 2. Identify the source of each plant nutrient, using only terms defined in the *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015).

Note: The *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015) is on file with the department and the legislative reference bureau. Copies may be obtained from the treasurer of the Association of American Plant Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at http://www.aapfco.org.

SECTION 5. ATCP 40.12 (2) (c) 1. and (Note) are amended to read:

ATCP 40.10 (2) (c) 1. The source material is accurately described by a term defined in the *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015).

Note: The *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67* (2014)~~ *68* (2015) is on file with the department and the legislative reference bureau. Copies may be obtained from the treasurer of the Association of American Plant Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at http://www.aapfco.org.

SECTION 6. ATCP 40.18 (2) and (Note) are amended to read:

ATCP 40.18 (2) No fertilizer may contain a metal in a concentration that exceeds the maximum allowable concentration specified for that metal in the *Official Publication of the Association of American Plant Food Control Officials, No.* ~~*67*~~ *68,* statement of uniform interpretation and policy number 25, (~~2014~~ 2015).

Note: Statement of uniform interpretation and policy number 25, from the *Official Publication of the Association of American Plant Food Control Officials, No.* ~~67~~ 68 (~~2014~~ 2015), is on file with the department and the legislative reference bureau. Copies may be obtained from the treasurer of the Association of American Plant Food Control Officials, Inc., North Carolina Department of Agriculture, P.O. Box 33508, Raleigh, NC 33636-3508, or online at http://www.aapfco.org.

SECTION 7. ATCP 42.06 (3) is amended to read:

ATCP 42.06 (3) SINGLE-INGREDIENT FEEDS. Product names for single-ingredient commercial feeds shall be consistent with the feed ingredient definitions specified in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

SECTION 8. ATCP 42.16 (1) (b) and (2) (b) are amended to read:

ATCP 42.16 (1) (b) Paragraph (a) does not apply to a commercial feed which is defined as a single ingredient feed product by the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

(2) (b) The official name of that ingredient as stated in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

SECTION 9. ATCP 42.32 (2) (b) is amended to read:

ATCP 42.32 (2) (b) The official name of that ingredient as stated in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

SECTION 10. ATCP 42.40 (4) (b) and (Note) are repealed and recreated to read:

ATCP 42.40 (4) (b) ~~The official name of that ingredient as stated in the 2014 *Official Publication of the Association of American Feed Control Officials.*~~ By a testing procedure published in the 2015 *Official Publication of the Association of American Feed Control Officials.*

Note: ~~The text of par. (b) was changed by CR 14-047 without striking or scoring. The only intended change was the replacement of "2006" with "2014." Prior to the unintended change, par. (b) read as shown below. Corrections will be made in future rulemaking.~~

~~(b) By a testing procedure published in the 2006 official publication of the association of American feed control officials.~~

Note: Copies of the *Official Publication of the Association of American Feed Control Officials* are on file with the department and the legislative reference bureau. Paper or electronic copies may be obtained from AAFCO at www.aafco.org.

SECTION 11. ATCP 42.44 (6) (a) and (b) are amended to read:

ATCP 42.44 (6) (a) The dog or cat food, when fed in recommended amounts, meets all nutrient requirements established in applicable pet nutrient profiles specified in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

(b) The dog or cat food is adequate as a sole source of nourishment for dogs or cats when fed according to label directions and according to feeding protocols for dogs and cats specified in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

SECTION 12. ATCP 42.54 (1) (a) is amended to read:

ATCP 42.54 (1) (a) The non-protein nitrogen ingredients are identified in the ~~2014~~ 2015 *Official Publication of the Association of American Feed Control Officials.*

SECTION 13. ATCP 50.62 (5) (e) 3. and 5. are amended to read:

ATCP 50.62 (5) (e) 3. NRCS technical guide ~~water~~ well decommissioning standard 351 (~~June, 2011~~ October, 2014).

5. NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

SECTION 14. ATCP 50.64 (1) (e) and (5) (a) are amended to read:

ATCP 50.64 (1) (e) Heavy use area protection described in NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

(5) (a) The system complies with applicable design, construction, and maintenance standards under this subchapter and NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

SECTION 15. ATCP 50.65 (3) (a) 1. is amended to read:

ATCP 50.65 (3) (a) 1. NRCS technical guide access road standard 560 (~~January, 2014~~ October, 2014).

SECTION 16. ATCP 50.66 (3) (a) 1. is amended to read:

ATCP 50.66 (3) (a) 1. NRCS technical guide ~~animal~~ trails and walkways standard 575 (~~January, 2014~~ October, 2014).

SECTION 17. ATCP 50.66 (3) (a) 4. is repealed.

SECTION 18. ATCP 50.68 (4) (a) is amended to read:

ATCP 50.68 (4) (a) The cropland cover meets NRCS technical guide cover crop standard 340 (~~January, 2014~~ August, 2015).

SECTION 19. ATCP 50.70 (4) (b) 4. is amended to read:

ATCP 50.70 (4) (b) 4. NRCS technical guide grassed waterway standard 412 (~~January, 2011~~ August, 2015).

SECTION 20. ATCP 50.705 (5) (a) 4. is amended to read:

ATCP 50.705 (5) (a) 4. NRCS technical guide vegetated treatment area standard 635 (~~September, 2012~~ October, 2014).

SECTION 21. ATCP 50.72 (3) (a) 4. is amended to read:

ATCP 50.72 (3) (a) 4. NRCS technical guide filter strip standard 393 (~~January, 2001~~ August, 2015).

SECTION 22. ATCP 50.73 (3) (d) 7. is amended to read:

ATCP 50.73 (3) (d) 7. NRCS technical guide grassed waterway standard 412 (~~January, 2011~~ August, 2015).

SECTION 23. ATCP 50.76 (5) (a) 2., 3., and 6. are amended to read:

ATCP 50.76 (5) (a) 2. NRCS technical guide watering facility standard 614 (~~May, 2011~~ October, 2014).

3. NRCS technical guide water well standard 642 (~~April, 2011~~ October, 2014).

6. NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

SECTION 24. ATCP 50.77 (4) (a) 6. is amended to read:

ATCP 50.77 (4) (a) 6. NRCS technical guide vegetated treatment area standard 635 (~~September, 2012~~ October, 2014).

SECTION 25. ATCP 50.80 (3) (a) 5. and 8. are amended to read:

ATCP 50.80 (3) (a) 5. NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

8. NRCS technical guide ~~animal~~ trails and walkways standard 575 (~~January, 2014~~ October, 2014).

SECTION 26. ATCP 50.83 (3) (a) 4. is amended to read:

ATCP 50.83 (3) (a) 4. NRCS technical guide filter strip standard 393 (~~January, 2001~~ August, 2015).

SECTION 27. ATCP 50.86 (4) (b) 5. and 6. are amended to read:

ATCP 50.86 (4) (b) 5. NRCS technical guide vegetated treatment area standard 635 (~~September, 2012~~ October, 2014).

6. NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

SECTION 28. ATCP 50.87 (4) (a) 3. is amended to read:

ATCP 50.87 (4) (a) 3. NRCS technical guide grassed waterway standard 412 (~~January, 2011~~ August, 2015).

SECTION 29. ATCP 50.88 (3) (a) 5. is amended to read:

ATCP 50.88 (3) (a) 5. NRCS technical guide heavy use area protection standard 561 (~~April, 2014~~ August, 2015).

SECTION 30. ATCP 50.885 (4) (a) 1., 2., and 4. are amended to read:

ATCP 50.885 (4) (a) 1. NRCS technical guide access road standard 560 (~~January, 2014~~ October, 2014).

2. NRCS technical guide streambank and shoreline protection standard 580 (~~August, 2013~~ March, 2015).

4. NRCS technical guide stream crossing standard 578 (March, ~~2013~~ 2015).

SECTION 31. ATCP 50.91 (3) (b) 2. and 5. are amended to read:

ATCP 50.91 (3) (b) 2. NRCS technical guide grassed waterway standard 412 (~~January, 2011~~ August, 2015).

5. NRCS technical guide terrace standard 600 (~~December, 2010~~ March, 2015).

SECTION 32. ATCP 50.94 (3) (a) 5. is amended to read:

ATCP 50.94 (3) (a) 5. NRCS technical guide vegetated treatment area standard 635 (~~September, 2012~~ October, 2014).

SECTION 33. ATCP 50.96 (3) (b) 3. is amended to read:

ATCP 50.96 (3) (b) 3. NRCS technical guide grassed waterway standard 412 (~~January, 2011~~ August, 2015).

SECTION 34. ATCP 50.97 (3) (a) is amended to read:

ATCP 50.97 (3) (a) NRCS technical guide ~~water~~ well decommissioning standard 351 (~~June, 2011~~ October, 2014).

SECTION 35. ATCP 75 appendix subpar. 3-201.11(H) (1) is amended to read:

ATCP 75 appendix 3-201.11(H) (1) ~~Fom~~ From an egg handler complying with the requirements of ATCP 88 and holding a FOOD PROCESSING PLANT license under s. 97.29, Stats.,

SECTION 36. ATCP 75 appendix § 3-202.13 is amended to read:

ATCP 75 appendix 3-202.13 **Eggs.**

EGGS shall be received clean and sound and may not exceed the restricted egg ~~tolerancesas~~ tolerances as specified in s. ATCP 88.26. [P]

SECTION 37. ATCP 90.01 (15g) and (Note), and (15r) and (Note) are amended to read:

ATCP 90.01 (15g) "*NIST Handbook 44*" means *NIST Handbook 44* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 44, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices* (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website: www.nist.gov.

(15r) "*NIST Handbook 133"* means *NIST Handbook 133* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 133, Checking the Net Contents of Packaged Goods* (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website: www.nist.gov.

SECTION 38. ATCP 91.01 (4) and (Note) are amended to read:

ATCP 91.01 (4) "*NIST Handbook 130*" means *NIST Handbook 130* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 130* (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, or at www.nist.gov.

SECTION 39. ATCP 92.01 (10h) and (Note), (10p) and (Note), and (10t) and (Note) are amended to read:

ATCP 92.01 (10h) "*NIST Handbook 44*" means *NIST Handbook 44* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 44,* Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website: www.nist.gov.

(10p) "*NIST Handbook 130*" means *NIST Handbook 130* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 130,* Uniform Laws and Regulation in the Areas of Legal Metrology and Engine Fuel Quality (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website: www.nist.gov.

(10t) "*NIST Handbook 133*" means *NIST Handbook 133* (~~2014~~ 2016 edition) published by the National Institute of Standards and Technology, United States department of commerce.

Note: Copies of *NIST Handbook 133,* Checking the Net Contents of Packaged Goods (~~2014~~ 2016 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website: www.nist.gov.

SECTION 40. ATCP 92.10 (Title) is amended to read:

ATCP 92.10 (Title) ~~**Recordkeeping**~~ **Record keeping and reporting.**

SECTION 41. ATCP 93.050 (64) and (117) (Note) are amended to read:

ATCP 93.050 (64) "Liquid" means any material that has both a fluidity greater than that of 300 penetration asphalt when tested in accordance with ASTM ~~D 5~~ D5 at standard conditions of temperature and pressure, and a vapor pressure of 40 pounds per square inch absolute (psia) or lower at 100oF as determined by ASTM ~~D 323~~ D323 or 4953. For materials outside the scope of the ASTM ~~D 5~~ D5 test, liquid means any material that both starts to melt at temperatures less than 100°F and has a vapor pressure of 40 psia or lower at 100°F.

(117) (Note)

Note: *Tank System Site Assessment: A Guide to the Assessment and Reporting of Suspected ~~and~~ or Obvious Releases From Underground and Aboveground Storage Tank Systems* ~~(Stock number 61D)~~ is available from ~~Document Sales and Distribution at 4622 University Avenue, Madison, WI 53705-2156; or at telephone (800) 362-7253; or at http:/docsales@doa.state.wi.us; or from~~ the ~~Department's~~ department's ~~Web site~~ website at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 42. ATCP 93.100 (1) (a) 4. (Note), 7. and (Note), and (3) (a) 5. d. (Note) are amended to read:

ATCP 93.100 (1) (a) 4. (Note)

Note: Under subsection (3) (a) 5. c., the ~~Department's~~ department's leak detection installation form (~~ERS-9 LD~~ TR-WM-133) must be filled out and submitted anytime leak detection equipment is added or modified, whether or not plan review is required. This form is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

7. Converting a full-service motor fuel dispensing facility or a self-service motor fuel dispensing facility to the use of a point-of-sale dispensing system or device. A certified installer is not required to perform the conversion to a point-of-sale dispensing system. The installer shall fill out the department's point-of-sale fueling installation form (~~ERS-6294 POS~~ TR-WM-130) and shall provide the form to the authorized agent or the department, for inspection of the system.

Note: Form ~~ERS-6294 POS~~ TR-WM-130 is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ or at http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(3) (a) 5. d. (Note)

Note: Forms ~~ERS-9~~ TR-WM-126 — ~~Flammable/Combustible~~ Flammable/Combustible/Hazardous Liquid Tanks Installation Application, ~~ERS-6294 POS~~ TR-WM-130 — Point-of-Sale Fueling Installation Notification, ~~ERS-9 LD~~ TR-WM-133 — Storage Tank Leak Detection Installation or Upgrade Application ~~/Notification~~, ~~ERS-9 Alternative Fuels~~ TR-WM-132 — Storage Tank Alternative Fuel Installation/Conversion Application, and ~~ERS-10764~~ TR-WM-124 — ~~Farm & Construction AST Installation Notification~~ Farm and Construction Aboveground Storage Tank Installation Notification, are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 43. ATCP 93.115 (2) (b) 2. a. and (Note), 4. a. and b. are amended to read:

ATCP 93.115 (2) (b) 2. a. At a pre-construction meeting. For installations involving underground tanks or piping, the department's pre-construction installation form (~~ERS-6294 PCM~~ TR-WM-131) shall be filled out by the certified installer, and a copy shall be provided to the certified tank system inspector at the end of the meeting. Where an LPO has jurisdiction, the LPO shall send a copy of the form to the department.

Note: Form ~~ERS-6294 PCM~~ TR-WM-131— Pre-Construction UST/PIPE Installation is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) ~~266-7874~~ 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

4. a. Before a shop-built tank system is placed into operation, including back into operation after undergoing a modification or upgrade that is required to have plan approval or registration, the authorized agent or the department shall inspect the installation, and shall record the results by completing and signing the installation checklist, form ~~ERS-9658~~ TR-WM-120, or ~~ERS-6294 UST~~ TR-WM-138, as received from the installer, under s. ATCP 93.400 (5) (f) or 93.500 (6) (e).

b. The original of the installation checklist, form ~~ERS-9658~~ TR-WM-120, or ~~ERS-6294 UST~~ TR-WM-138, shall be completed and submitted to the department. A copy of the checklist shall be furnished to the owner, and a copy shall be retained by the authorized agent if there is one.

SECTION 44. ATCP 93.130 (4) (c) (Note) is amended to read:

ATCP 93.130 (4) (c) (Note)

Note: Form ~~ERS-8028-A~~ TR-WM-127— Wisconsin Material Approval Application is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 45. ATCP 93.140 (2) (b) and (Note), (3) (a) and (Note), (c) 1., (d) and 2., 3. and 4. are amended to read:

ATCP 93.140 (2) (b) An owner of a registered tank who changes their name or mailing address, or an owner of a registered tank at a facility that undergoes a name change, shall have

the change registered with the department on form ~~ERS-7437~~ TR-WM-137, ~~ERS-8731~~ TR-WM-118 or ERS-10861 E, as provided by the department, within 15 business days of the change.

ATCP 93.140 (2) (b) (Note)

Note: Form ~~ERS-7437~~ TR-WM-137— Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, form ~~ERS-8731~~ TR-WM-118– Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form ERS-10861 E — Change of Ownership, Flammable/Combustible/Hazardous Liquid Storage Tank Registration are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942. ~~Forms ERS-7437 and 8731 are also available from the Bureau's Web,~~ or at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(3) (a) *General.* A storage tank registration form, form ~~ERS-7437~~ TR-WM-137 or ~~ERS-8731~~ TR-WM-118, shall be completed, signed by the owner and submitted to the department, for each tank which stores regulated substances and which is not exempted in sub. (1).

Note: Form ~~ERS-7437~~ TR-WM-137 — Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form ~~ERS-8731~~ TR-WM-118 — Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(c) 1. Submittal of a registration form for a newly installed shop-built tank system, or for a registered shop-built tank system addressed in sub. (2) (c), shall include the original of the tank installation inspection checklist, form ~~ERS-9658~~ TR-WM-120, or ~~ERS-6294 UST~~ TR-WM-138, as completed by the certified tank system inspector under s. ATCP 93.115 (2) (b) 4., except as specified in par. (d).

(d) *Exceptions.* In the following circumstances, the specified documents shall be submitted instead of form ~~ERS-9658~~ TR-WM-120 or ~~ERS-6294-UST~~ TR-WM138:

(d) 2. 'Conversion to point-of-sale fueling.' Where conversion to point-of-sale fueling is the only change at a facility, submittal of the registration form shall include the POS fueling installation form (~~ERS-6294 POS~~ TR-WM-130) completed under s. ATCP 93.100 (3) (a) 5. b.

3. 'Upgrade, exchange or conversion of installed leak detection methodology to another approved methodology or manufacturer.' Where upgrade, exchange or conversion of installed leak detection methodology to another approved methodology or manufacturer is the only change at a facility, submittal of the registration form shall include the leak detection installation form (~~ERS-9 LD~~ TR-WM-132) completed under s. ATCP 93.100 (3) (a) 5. c.

4. 'Conversion to storage and dispensing of alternative motor fuels.' Where conversion to storage and dispensing of alternative motor fuels is the only change at a facility, submittal of the registration form shall include Part II of form ~~ERS-9 Alternative Fuels~~ TR-WM-132, as completed by the tank owner under s. ATCP 93.100 (3) (a) 5. d.

SECTION 46. ATCP 93.150 (2) (e) (Note) is amended to read:

ATCP 93.150 (2) (e) (Note)

Note: Form ~~ERS-7437~~ TR-WM-137 — Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, form ~~ERS-8731~~ TR-WM-118– Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form ERS-10861 E — Change of Ownership, Flammable/Combustible/Hazardous Liquid Storage Tank Registration are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942. ~~Forms ERS-7437 and 8731 are also available from the Division's Web site~~, or at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 47. ATCP 93.1605 (table footnote) is amended to read:

ATCP 93.1605 (table footnote)

* If the Department is conducting plan review in the absence of an assigned local program operator, the appropriate Table 93.1605 fees must be submitted, along with the groundwater fee in sub. (2). Further information on where local program operators perform reviews is available at the following ~~Web~~ web-site: ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 48. ATCP 93.350 (2) (b) is amended to read:

ATCP 93.350 (2) (b) *Notification.* The qualified engineer shall notify the department, on form ~~ERS-9198~~ TR-WM-121, of an impending installation of a tank system under this section, unless this notice is provided under s. ATCP 93.115 (2) (b) 3.

SECTION 49. ATCP 93.400 (5) (f) and (Note), (6) (c) and (Note), (8) (a) 1. b. and (Note), c., and d. are amended to read:

ATCP 93.400 (5) (f) Upon completion of any installation of new or replacement shop-built tanks or piping, or any modification or upgrade thereto that requires plan approval or registration, the certified installer shall provide the authorized agent or the department with a completed tank installation checklist, form ~~ERS-9658~~ TR-WM-120.

Note: Form ~~ERS-9658~~ TR-WM-120 - Checklist for Aboveground Storage Tank Installation is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(6) (c) If the tank is relocated to a property with a different street address, a revised tank registration, form ~~ERS-8731~~ TR-WM-118 or ERS-10861 E, and part A of a tank-system service and closure assessment report, form ~~ERS-8951~~ TR-WM-140, shall be completed and submitted to the department for the former location.

Note: Form ~~ERS-8731~~ TR-WM-118 — Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration; form ERS-

10861 E — Change of Ownership, Flammable/Combustible/Hazardous Liquid Storage Tank Registration; and form ~~ERS-8951~~ TR-WM-140 — Tank System Service and Closure Assessment Report are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942~~. Forms ERS-8731 and 8951 are also available from the Bureau's Web site~~, or at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(8) (a) 1. b. All repairs or modifications under STI SP031 shall be recorded on the department's ~~ERS-10873~~ TR-WM-134 form.

Note: Form ~~ERS-10873~~ TR-WM-134 –STI SP031 Tank Repair/Modification Summary, is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

c. A copy of the completed ~~ERS-10873~~ TR-WM-134 form shall be provided to the tank owner or operator.

d. The tank owner or operator shall have the completed ~~ERS-10873~~ TR-WM-134 form on site and available for inspection within 30 days after receiving it from the party that performed the repair.

SECTION 50. ATCP 93.440 (3) (a) 2. c. (Note) is amended to read:

ATCP 93.440 (3) (a) 2. c. (Note)

Note: STI SP001 requires monthly and annual inspections, and requires maintaining records of these inspections. For almost all ASTs that have a capacity of 5000 gallons or less, these inspections are only required to be visual. For most tanks that have a capacity of more than 5,000 gallons, the requirements include, but are not limited to, having a certified inspection every 20 years, consisting of a visual exam and spot, ultrasonic examination, with no requirement for an integrity pressure test. STI SP001 includes optional checklists that may be used for the required ~~recordkeeping~~ record keeping. These checklists and a compendium that contains further guidance for these inspections are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~

http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 51. ATCP 93.465 (1) (b) (Note) is amended to read:

ATCP 93.465 (1) (b) (Note)

Note: For further information on sampling and reporting for these assessments, see the Department's *Tank System Site Assessment: A Guide to the Assessment and Reporting of Suspected ~~and~~ or Obvious Releases From Underground and Aboveground Storage Tank Systems* http://datcp.wi.gov/Consumer/Weights_and_Measures/Admin_and_Technical_References/index.aspx. ~~(Stock number 61D) which is available from Document Sales and Distribution at 4622 University Avenue, Madison, WI 53705-2156; or at telephone (800) 362-7253; or at docsales@doa.state.wi.us; or from the Department's Web site at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx.~~

~~**Note:** The format for the reporting is available at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx.~~

SECTION 52. ATCP 93.515 (2) (d) 2. is amended to read:

ATCP 93.515 (2) (d) 2. Incomplete or inconsistent data entry reflected during any 2 months of data entry out of the most recent 3 months of inventory control ~~recordkeeping~~ record keeping.

SECTION 53. ATCP 93.520 (1) (d) 4. and (Note), and (e) 3. b. (Note) are amended to read:

ATCP 93.520 (1) (d) 4. The results of the inspections, evaluations and testing under this paragraph shall be summarized on the department's form ~~ERS-10785~~ TR-WM-141, and retained at the site in accordance with s. ATCP 93.500 (9).

Note: Form ~~ERS-10785~~ TR-WM-141, ~~Underground Tank System~~ UST Corrosion Protection ~~Summary Documentation~~ Test/Survey Report, is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(e) 3. b. (Note)

Note: Additional information on corrosion protection certifications is available ~~from the Department's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 54. ATCP 93.530 (2) (f) 4. and (Note) is amended to read:

ATCP 93.530 (2) (f) 4. A revised tank registration, form ~~ERS-7437~~ TR-WM-137.

Note: Form ~~ERS-7437~~ TR-WM-137 — Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 55. ATCP 93.535 (7) is amended to read:

ATCP 93.535 (7) The person performing the inspection shall provide a report to the owner and to the authorized agent and the department within 15 days of completing the inspection~~,~~ that describes all of the following items in addition to those required in API 1631:

SECTION 56. ATCP 93.550 (1) (e) and (Note) are amended to read:

ATCP 93.550 (1) (e) The owner shall have a revised tank registration, form ~~ERS-7437~~ TR-WM-137, and part A of the department's tank-system service and closure assessment report, form ~~ERS-8951~~ TR-WM-140, completed and submitted to the department within 21 business days of changing a tank system to storage of a non-regulated substance.

Note: Forms ~~ERS-7437~~ TR-WM-137- Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form ~~ERS-8951~~ TR-WM-140– Tank System Service and Closure Assessment Report are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~

http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 57. ATCP 93.560 (1) and (Note), (2) (d) and (Note) are amended to read:

ATCP 93.560 (1) Notification. At least 5 business days before beginning permanent closure of a tank system, the owner or operator shall notify the authorized agent or the department of the intended closure, on form ~~ERS-9198~~ TR-WM-121, except a shorter notification period is permitted where unexpected closure is commenced upon finding adverse conditions during a corrective action conducted under s. ATCP 93.585.

Note: Form ~~ERS-9198~~ TR-WM-121– ATCP 93 Notification Record is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(2) (d) When an underground tank is closed, or when a previously closed tank is removed under sub. (4), the owner shall have a revised tank registration, form ~~ERS-7437~~ TR-WM-137, and part A of the department's tank-system service and closure assessment report, form ~~ERS-8951~~ TR-WM-140, completed and submitted to the department within 21 business days of closure or removal.

Note: Form ~~ERS-7437~~ TR-WM-137— Underground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form ~~ERS-8951~~ TR-WM-140– Tank System Service and Closure Assessment Report are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site at http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 58. ATCP 93.580 (3) (a) (Note) is amended to read:

ATCP 93.580 (3) (a) (Note)

Note: The format for the reporting is available at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 59. ATCP 93.620 (1) (b) (Note) is amended to read:

ATCP 93.620 (1) (b) (Note)

Note: See the ~~Department's Web~~ department's web-site at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 60. ATCP 93.630 (3) (c) and (Note) are amended to read:

ATCP 93.630 (3) (c) The certified installer shall fill out a tank installation notification, form ~~ERS-10764~~ TR-WM-124, and provide the form to the authorized agent or the department for inspection of the tank system.

Note: Form ~~ERS-10764~~ TR-WM-124— Farm & Construction AST Installation Notification is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 61. ATCP 93.630 (Table Title) is amended to read:

ATCP 93.630 (Table Title)

Table 93.630
Tank System Setbacks for Tanks ~~With~~ with Secondary Containment

SECTION 62. ATCP 93.680 (4) (a) (Note), (b), (c) and (Note) are amended to read:

ATCP 93.680 (4) (a) (Note)

Note: See the ~~Department's Web~~ department's web-site at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

(b) A certified installer or professional engineer shall complete part I of the department's alternative fuel installation/conversion application form (~~ERS-9~~ TR-WM-126 Alternative Fuels) and submit it to the department as part of the plan review submittal.

(c) Before commencing normal fueling operations using ethanol-blended fuel, the operator shall complete part II of the department's alternative fuel installation/conversion application form (~~ERS-9~~ TR-WM-126 Alternative Fuels) and provide the completed form to the certified tank system inspector performing the pre-operational inspection.

Note: Form ~~ERS-9~~ TR-WM-126 Alternative Fuels — Storage Tank Alternative Fuel Installation/Conversion Application is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 63. ATCP 93.703 (2) (Note) is amended to read:

ATCP 93.703 (2) (Note)

Note: The affidavit of financial responsibility is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or ~~from the Bureau's Web site~~ at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 64. ATCP 93.727 (2) (a) is amended to read:

ATCP 93.727 (2) (a) A local government owner or operator or local government serving as a guarantor that is not a general purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of s. ATCP 93.705 by having a currently outstanding issue or issues of revenue bonds of $1 million or more, excluding refunded issues, and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard &

Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government.

SECTION 65. ATCP 93.745 (2) (j) 3. b. (Note) is amended to read:

ATCP 93.745 (2) (j) 3. b. (Note)

Note: A copy of the affidavit of financial responsibility required in 40 CFR 280.111(b)(11)(i) is available from the ~~Department's Web~~ department's web-site at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 66. ATCP 93.747 (2) (c) 1. b. (Note) is amended to read:

ATCP 93.747 (2) (c) 1. b. (Note)

Note: A copy of the affidavit of financial responsibility required in 40 CFR 280.111(b)(2)(i) is available from the ~~Department's Web~~ department's web-site at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 67. ATCP 93.810 (2) and (Note) is amended to read:

ATCP 93.810 (2) "Class B operator" means an individual who implements, on-site, the day-to-day aspects of operating, maintaining and ~~recordkeeping~~ record keeping for an underground storage tank system.

Note: This individual generally focuses on field implementation of applicable UST requirements and the day-to-day aspects of operating, maintaining, and ~~recordkeeping~~ record keeping for USTs at one or more facilities.

SECTION 68. ATCP 93.830 (2) (a) and (b) are amended to read:

ATCP 93.830 (2) (a) Requirements for leak or release detection methods, ~~recordkeeping~~ record keeping and reporting are met.

(b) Requirements for leak or release prevention equipment, ~~recordkeeping~~ record keeping and reporting are met.

SECTION 69. ATCP 93.840 (1) is amended to read:

ATCP 93.840 (1) Basic underground storage tank system requirements, so that he or she can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and ~~recordkeeping~~ record keeping requirements and standards of this chapter regarding all of the following:

SECTION 70. ATCP 93.841 (2) (b) 5. is amended to read:

ATCP 93.841 (2) (b) 5. Reporting and ~~recordkeeping~~ record keeping requirements.

SECTION 71. ATCP 93.870 (Title) is amended to read:

ATCP 93.870 (Title) ~~**Recordkeeping.**~~ **Record Keeping.**

SECTION 72. ATCP 94.110 (3) (Note) is amended to read:

ATCP 94.110 (3) (Note)

Note: Form ~~ERS-9890A~~ TR-WM-129 is available from the Bureau of Weights and Measures, at P.O. Box 8911, Madison, WI 53708-8911, or (608) 224-4942 or at ~~http://datcp.wi.gov/Consumer/Weights_and_Measures/index.aspx~~ http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 73. ATCP 94.200 (1), (a), (b), (c), (d), (e), (f), (g), (h), (j), (k) and (L) are amended to read:

ATCP 94.200 (1) The following standards of the ~~*2014*~~ *2015 Annual Book of ASTM Standards* of the American society for testing and materials are incorporated by reference into this chapter:

(a) ASTM ~~D396-14~~ 396-15b, standard specification for fuel oils.

(b) ASTM ~~D910-13a~~ D910-15, standard specification for aviation gasolines.

(c) ASTM ~~D975-14~~ D975-15b, standard specification for diesel fuel oils.

(d) ASTM ~~D1655-13a~~ D1655-15b, standard specification for aviation turbine fuels.

(e) ASTM D3699-13be1, standard specification for kerosine.

(f) ASTM ~~D4806-13a~~ D4806-15, standard specification for denatured fuel ethanol for blending with gasolines for use as automotive spark-ignition engine fuel.

(g) ASTM ~~D4814-14~~ D4814-15a, standard specification for automotive spark-ignition engine fuel.

(h) ASTM ~~D5798-13a~~ D5798-14, standard specification for ethanol fuel blends for flexible-fuel for automotive spark-ignition engines.

(j) ASTM ~~D6751-12~~ D6751-15a, standard specification for biodiesel fuel blend stock (B100) for middle distillate fuels.

(k) ASTM ~~D7467-13~~ D7467-15a, standard specification for diesel fuel oil, biodiesel blend (B6 to B20).

(L) ASTM D7547-14b, standard specification for hydrocarbon unleaded aviation gasoline.

SECTION 74. ATCP 105.009 (4) is amended to read:

ATCP 105.009 (4) Pricing to meet competition. A seller may not claim to be meeting competition if the seller's price is less than the competitor's price.

SECTION 75. ATCP 127.18 (Title) is amended to read:

ATCP 127.18 (Title) ~~**Recordkeeping.**~~ **Record Keeping.**

SECTION 76. ATCP 127.48 (Title) is amended to read:

ATCP 127.48 (Title) ~~**Recordkeeping.**~~ **Record Keeping.**

SECTION 77. ATCP 127.76 (Title) is amended to read:

ATCP 127.76 (Title) ~~**Recordkeeping.**~~ **Record Keeping.**

SECTION 78. ATCP 127.84 (Title) is amended to read:

ATCP 127.84 (Title) ~~**Recordkeeping.**~~ **Record Keeping.**

SECTION 79. ATCP 134.04 (3) (Note) is repealed.

SECTION 80. ATCP 141.04 (1) is amended to read:

ATCP 141.04 (1) Membership. A cherry marketing board consisting of 5 affected producers is established to administer this order. Board members shall be elected producers. Board members shall be nominated and elected as prescribed in s. 96.10 (1), Stats. Notice of the secretary's decision for issuance of this marketing order shall contain a call for nominations for election of board members to initial terms of office. Nominations shall be filed not earlier than 58 days and not later than 75 days after the secretary's call for nominations, and the election held within 60 days after approval of the marketing order by referendum. A call for nominations of affected producers for subsequent election to an expired term of office on the marketing board shall be made by the board ~~[~~not later than 90 days before expiration of the term, and nominations shall be filed~~]~~ not later than 60 days before the term of office expires. Elections to fill expired terms of office shall be held within the 60-day period preceding expiration of the terms of office. If no nominations are made by affected producers within the times specified, the secretary or marketing board may extend the time period within which nominations may be filed.

SECTION 81. ATCP 141.04 (1) (Note) is repealed.

SECTION 82. EFFECTIVE DATE: This rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this _____ day of _____, 2016.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By_____
Ben Brancel, Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

Initial Regulatory Flexibility Analysis

Rule Subject:	**Technical Rule**
Adm. Code Reference:	**ATCP 30, 40, 42, 50, 75 Appendix, 90, 91, 92, 93, 94, 105, 127, 134, and 141**
Rules Clearinghouse #:	**Not yet assigned**
DATCP Docket #:	**15-R-14**

Rule Summary

This rule makes minor or technical changes to a number of current Department rules. This rule does all of the following:

Pesticide Use and Control

Removes date references that are no longer necessary and updates cross references to other Department chapters.

Fertilizer and Related Products

Incorporates by reference the most recent edition of the current rule standard concerning fertilizers.

Commercial Feed

Updates the technical standards in the current rule to the most recent versions and reinserts a paragraph that was inadvertently removed during prior rulemaking.

Soil and Water Resource Management Program

Updates several sections to reference the current versions of technical standards.

Wisconsin Food Code Appendix

Corrects a spelling and spacing error.

Fair Packaging and Labeling; Selling Commodities by Weight, Measure or Count; Weights and Measures; Flammable, Combustible and Hazardous Liquids;

- Corrects small grammatical errors.
- Updates the technical references to cite the current NIST Handbook and ATSM fuel standards.
- Amends notes to reference website addresses and form numbers.

- Removes obsolete notes.

Petroleum and Other Liquid Fuel Products

Updates the technical references to cite the current NIST Handbook and ATSM fuel standards and amends notes to reference current website addresses and form numbers.

Sales Below Cost

Corrects a grammatical error.

Direct Marketing

Corrects a grammatical error.

Residential Rental Practices

Removes an obsolete note.

Cherry Marketing Order

Removes a note and set of brackets that were added during previous rulemaking to correct the inadvertent removal of language from a subsection.

Small Business Affected

This rule will not have any impact on small businesses or other business. This rule makes minor technical changes that will not have any impact on business standards, costs, or operations.

Reporting, Bookkeeping and other Procedures

The proposed rule does not create any reporting, bookkeeping, or other requirement for small businesses.

Professional Skills Required

The proposed rule does not require any profession skill of small businesses.

Accommodation for Small Business

This rule has no impact upon small businesses and as a result, no accommodations are needed.

Conclusion

This rule will not have any effect on "small business," and is not subject to the delayed "small business" effective date provided in s. 227.22(2) (e), Stats.

Dated this 6th day of January, 2016.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Karley Downing, Chief Legal Counsel
Office of the Secretary

ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

Administrative Rule Chapter, Title and Number

Chaps. ATCP 30, 40, 42, 50, 75 Appendix, 90, 91, 92, 93, 94, 105, 127, 134, and 141

Subject

Technical Rule Changes

Fund Sources Affected	Chapter 20 , Stats. Appropriations Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG SEG-S	

Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Indeterminate	☐ Increase Existing Revenues ☐ Decrease Existing Revenues	☐ Increase Costs ☐ Could Absorb Within Agency's Budget ☐ Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy	☐ Specific Businesses/Sectors
☐ Local Government Units	☐ Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than $20 million?

☐ Yes ☒ No

Policy Problem Addressed by the Rule

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Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Small Businesses

This rule makes technical housekeeping changes that will have no effect upon small businesses.

Utility Rate Payers

The rule will have no impact on utility rate payers.

Local Governments

This rule will not impact local governments. Local governments will not have any implementation or compliance costs.

General Public

This rule makes technical changes to the existing rules identified above. The proposed rule will not have any economic impact on the general public or the State's economy different from the impact of the existing rules that are proposed to be amended.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits

This rule will benefit the public and various business sectors, as described above, by making technical changes to existing rules.

General Public

The general public and consumers will benefit from the technical changes in this rule through the clarification and updating of existing rules.

Alternatives

This rule makes necessary technical changes in existing rules. If the Department does not make the proposed technical changes, there will continue to be outdated provisions in existing regulations, inconsistencies between regulations and referenced documents, and certain regulations will lack necessary clarity.

Long Range Implications of Implementing the Rule

Long-term, implementing the rule will benefit businesses and the general public for the reasons stated above.

Compare With Approaches Being Used by Federal Government

The technical changes are proposed to ensure that the specified existing Department rules remain consistent with federal statutes and regulations.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The housekeeping and technical rule changes proposed in this rule will not create any disparities between Wisconsin and the adjacent states.

Comments Received in Response to Web Posting and Department Response

No comments were received in response either to the posting on the Department's external website or the statewide administrative rules website.