

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Fuel "Filtering"/"Polishing" Information for Businesses & Service Companies

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

DEADLINE FOR SUBMISSION

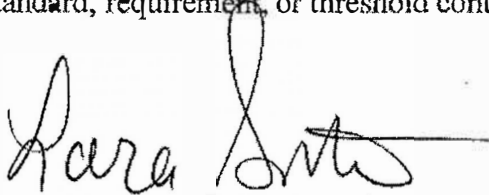
The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. ch.168, Wis. Admin. Code, ch. 94.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



Lara Sutherlin
Administrator
Division of Trade and Consumer Protection



Wisconsin Department of Agriculture, Trade and Consumer Protection

Choose an item.

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GUIDANCE DOCUMENT

Fuel "Filtering"/"Polishing": Information for Businesses & Service Companies

This guidance document is based on Wis. Stat. ch. 168 and chapter(s) ATCP 94 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

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See attached.

December 9, 2019

Lara Sutherlin - Administrator, Division of Trade and Consumer Protection

DATE

Contributors:



Fuel “Filtering”/“Polishing”

Information for Businesses & Service Companies

BUREAU OF WEIGHTS AND MEASURES

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datcp.wi.gov

RESOURCES

Wis. Admin. Code ATCP 94:
docs.legis.wisconsin.gov/code/admin_code/atcp/090/94

Wis. Stat. 168:
docs.legis.wisconsin.gov/statutes/statutes/168

Contaminated Fuel: Tank Pump Outs fact sheet:
<https://datcp.wi.gov/Documents/ContaminatedFuel-PumpOuts.pdf>

Some companies are now offering services to “filter” or “polished” off-spec fuel in order for it to be able to be sold. Any fuel that is filtered, polished, or otherwise altered, must be sampled, tested, and approved by the Department of Agriculture, Trade and Consumer Protection (DATCP) prior to retail sale. Fuel cannot be sold or offered for sale until it has passed all required tests, per Wisconsin Administrative Code § ATCP 94.400(5).

Pumps outs of contaminated fuel and fuel blending are not permitted without DATCP supervision. For more information on that, please see our Contaminated Fuel fact sheet.

Information and requirements for filtered/polished fuel

- No DATCP license is required to filter or polish any petroleum fuel product; however, doing so is entirely at your own risk.
- Fuel must be lab tested to ensure the fuel meets all of the specifications required by Wis. Admin. Code ATCP 94 Subchapter II, including octane.
- A DATCP Weights and Measures inspector will collect a sample of the fuel. Fuel samples that have not been collected or witnessed by a DATCP official will not be accepted for testing or approval.
- Fuel sample must pass DATCP Fuel Lab tests. Fuel cannot be sold until it receives passing test results from the DATCP Fuel Lab.
- Third party lab tests. Tests that cannot be performed by the DATCP lab, such as octane testing, must be conducted by a third party lab. The fuel owner is responsible for any costs associated with third party lab testing.
- If the fuel sample fails DATCP Fuel Lab testing, you will need to obtain passing test results from a third party lab before requesting any re-sample from the department.
 - Third party lab results must demonstrate that the sample meets the ASTM Specifications associated with that particular product. See Wis. Admin. Code ATCP 94 Subchapter II for specific fuel type requirements.
 - Once 3rd party lab passing results are received, the department must sample, test, and pass the fuel before the product can be sold.

Prohibited Practices

- Once fuel is found to be off-spec, blending fuels in an underground storage tank is a violation of Wis. Admin. Code §§ ATCP 94.400(1) and (2).
- Pumping out suspected contaminated fuel without DATCP supervision is a violation of Wis. Admin. Code § ATCP 94.100(8)(b).
- Sale of fuels in Wisconsin that do not meet national fuel quality specifications as required by Wis. Admin. Code ATCP 94 Subchapter II are prohibited.
- Removing a red tag is a violation of Wis. Admin. Code ATCP 94.