

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.:	WA-01-25
Relating to:	Revisions to chs. NR 660 to 679, pertaining to hazardous waste recordkeeping and reporting requirements, Canadian import-export operation codes, and standards for spent refrigerants being recycled for reuse.
Rule Type:	Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rule will be proposed as a permanent rule.

2. Detailed description of the objective of the proposed rule:

The Wisconsin Department of Natural Resources (department) is authorized by the U.S. Environmental Protection Agency (EPA) to manage a state program recognized as equivalent to the federal Resource Conservation and Recovery Act (RCRA). In Wisconsin, this is the Hazardous Waste Management Program within the Waste and Materials Management Program. To maintain program authorization, Wisconsin must have analogous regulations to the federal hazardous waste regulations found in 40 CFR 260 to 279. Wisconsin has promulgated these equivalent regulations in chs. NR 660 to 679, Wis. Adm. Code.

The purpose of this scope statement is to amend chs. NR 660 to 679, Wis. Adm. Code, based on changes made to the analogous federal regulations. The federal regulations outlined in this scope are effective at the national level on the dates listed under each rule and authorized states are required to align with these federal requirements, which pertain to three elements outlined below.

Recordkeeping and Reporting Requirements

The first federal rule that the department will evaluate for incorporation into administrative code is the U.S. EPA “Third Manifest Rule Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-Related Reports”, promulgated on July 26, 2024. All parts of this rule were effective at the national level on January 22, 2025, with the exception of the first bullet, which will be effective December 1, 2025. This rule pertains to manifest regulations for the shipment of hazardous wastes that are exported for treatment, storage, and disposal. Additionally, this rule addresses reporting requirements and technical correction requirements pertaining to manifests tracking the movement of hazardous wastes. The rule elements that will be evaluated include, in part:

- Requiring manifest discrepancy reports, manifest exception reports, and unmanifested waste reports to be entered into the national e-Manifest system.
- Requiring responsible entities to correct manifest errors.
- Requiring certain hazardous waste generators to register in the national e-Manifest system.
- Eliminating certain requirements pertaining to mailing copies of reports and manifests and reducing the manifest paperwork from five pages to four.
- Changing timeframes for Exception Reporting.

- Incorporating hazardous waste export manifests into the e-Manifest system and expanding the required international shipment data elements on the manifest form.
- Modifying polychlorinated biphenyl manifest regulations under the Toxic Substances Control Act, and making other technical corrections to remove obsolete requirements, correct typographical errors, establish definitions, and/or improve alignment with the e-Manifest program.

Canadian Import-Export Operation Codes

The second federal rule that the department will evaluate for incorporation into administrative code is the U.S. EPA rule “Canada Import Export Recovery and Disposal Code Changes”, promulgated on October 1, 2021, and effective at the national level October 31, 2021. This rule modified regulations related to twelve hazardous waste import-export recovery and disposal operations. These regulations are used when U.S. exporters and importers submit hazardous waste export and import notices to U.S. EPA, and in movement documents that accompany export and import shipments. Additionally, the modified and analogous disposal codes will help alleviate confusion in the transportation of hazardous waste across the Canadian-U.S. border.

Spent Refrigerants Being Recycled for Reuse

The third federal rule that the department will evaluate for incorporation into administrative code is the U.S. EPA rule “Management of Certain Hydrofluorocarbons and Substitutes”, promulgated on October 11, 2024, and effective at the national level December 10, 2024. This rule pertains to certain ignitable spent refrigerants being recycled for reuse and was established to promote emissions reduction and reclamation for the management of hydrofluorocarbons (HFCs) and certain substitutes. Elements of this rule would address requirements for the installation and use of automatic leak detection systems, servicing and repair, training, recordkeeping, reporting, and labeling.

The department will evaluate adoption of equivalent content and format of the promulgated federal regulations. Additional rule changes may be pursued which are reasonably related to those discussed within this scope statement.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

A uniform hazardous waste manifest is required to accurately track hazardous waste from the generator to disposal. Historically, the manifest was generated and maintained in paper form, and copies were signed and kept by the generator, transporter, and any storage, treatment, and disposal facilities. Since 2018, both state and federal regulations require the use of a national system for tracking manifests digitally, called e-Manifest, with the data maintained in a federal database. The federal rules currently proposed for evaluation and potential adoption at the state level are intended to create manifest and waste disposal code consistencies during both interstate transportation and the export of hazardous wastes, and will reduce paperwork and modernize recordkeeping and reporting requirements. This rule is effective at the federal level and promulgated state implementation is required to maintain U.S. EPA authorization.

Currently twelve import and export recovery and disposal operations and codes used in United States hazardous waste notices and accompanying movement documents submitted to the U.S. EPA differ from changes made in Canada’s operation and disposal codes and descriptions. This rule will align the U.S. existing codes and operations to Canadian regulatory definitions so that export and import notices and subsequent movement documents exchanged between Canada and the U.S. do not contain conflicting information.

Additionally, the proposed rule will address refrigerants with the purpose of promoting the recycling of HFCs while minimizing releases. This rule is currently effective federally and state implementation is required to maintain EPA authorization. These regulations will specifically impact recovery and

reclamation of certain ignitable spent refrigerants, and the management of equipment, emissions, and recordkeeping associated with recycling HFCs. This rule will add a subsection to promote the recycling and management of ignitable refrigerants. This subsection is an alternative standard to assist in preventing the stockpiling and mismanagement of HFCs that can be recycled.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 287.03(1)(a), Wis. Stats., directs the department to promulgate rules to implement the Solid Waste Reduction, Recovery and Recycling program pursuant to ch. 287, Wis. Stats.

Sections 289.05 and 289.06, Wis. Stats., direct the department to promulgate rules establishing solid waste management standards. Pursuant to ss. 291.05 and 291.07, Wis. Stats., the department is required to promulgate rules for the implementation of the resource conservation and recovery act and the methods of treatment or disposal of hazardous wastes.

Additional statutes which may relate to or be affected by the proposed rule revisions include ss. 227.11(2)(a) and 227.14(1m), Wis. Stats.

The proposed rules and revisions would replace and update current state rules that comprehensively regulate the generation, transportation, recycling, treatment, storage, and disposal of hazardous wastes. As authorized by s. 227.14(1m), Wis. Stats., the department plans to format the proposed rules in a manner equivalent to the code of federal regulations published by the EPA under the federal Resource Conservation and Recovery Act.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that approximately 1,000 hours of staff time will be required to complete the proposed rule.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rules will likely have some impact on all regulated classes of hazardous waste generators, transporters, and treatment, storage, and disposal facilities, including importers and exporters of hazardous waste. This rule may impact entities affected by air and solid waste program requirements, specifically recyclers of refrigerants.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The proposed rules would ensure equivalency with federal regulations and would allow the department to maintain consistency with federal requirements relating to manifesting hazardous waste, Canadian import and export code designations, and the management of recycled refrigerants.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

The total economic impact of this proposed rule is expected to be minimal (less than \$50,000). There is an anticipated cost savings from the changes made by the e-Manifest Rule. The reduction of the number of manifest pages and the removal of the requirement to mail final copies of the manifest to generators will provide a savings by reducing printing and postal fees. Exception reporting, discrepancy

reporting, and unmanifested waste reporting will all transition to an automated, electronic component of the e-Manifest system, eliminating the regulation to mail paper copies of the reports. This portion of the rule is not anticipated to have a significant regulatory cost for small businesses.

There is no anticipated economic impact from the adoption of the twelve disposal codes currently used by Canada for import and export shipments. These codes will align disposal codes and help alleviate confusion in the transportation of hazardous waste across the Canadian-U.S. border. This portion of the rule is not anticipated to have any regulatory cost for small businesses.

The modifications to the management requirements for recycled refrigerants would be expected to have a moderate economic impact on affected entities. Costs incurred will be for updated leak-detection equipment, repairs, refrigerant recovery, disposal of deficient equipment, and recordkeeping and reporting. However, costs may be potentially offset by reducing the need to purchase new refrigerant, improving early leak detection, extending service life of appliances by conducting regular inspections to detect and repair leaks, decreasing food waste by minimizing refrigerant-containing appliance operation failures, and improving capture and recycling of ignitable refrigerants. Recordkeeping requirements would be similar to Clean Air Act requirements. This portion of the rule is not anticipated to have a significant economic impact for small businesses.

9. Anticipated number, month and locations of public hearings:

The department anticipates holding a virtual public hearing on or around May 2027, to provide an opportunity for businesses, industries, municipalities, environmental groups, and the public throughout the state to participate.

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Signed by:

Steven Little

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For Karen Hyun, Ph.D., Secretary

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Date Submitted