

The statement of scope for this rule, insert SS 001-25, was approved by the Governor on November 27, 2025, published in Register No. 829A1 on January 6, 2025, and approved by the Natural Resources Board on April 9, 2025. This rule was approved by the Governor on insert date.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
AMENDING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to **amend** NR 530.05 (1) (intro.), 530.08 (1) (b) 2., and 530.13 (1); to **create** NR 530.05 (1) (d) to (h), 530.065, 530.07 (3), 530.075, and 530.08 (1) (b) 5. relating to implementation of electronics recycling program requirements and affecting small business.

WA-15-24

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: Sections 287.03 and 287.17, Stats.

2. Statutory Authority:

Sections 287.03 and 287.17, Stats.

3. Explanation of Agency Authority:

Section 287.03, Stats., directs the department to promulgate rules necessary to implement ch. 287, Stats., Solid Waste Reduction, Recovery, and Recycling. In addition, s. 287.17, Stats., gives the department specific authority for promulgating rules related to certain aspects of the electronics recycling law.

- Section 287.17(4)(g)3., Stats., directs the department to establish by rule what may constitute good faith progress toward meeting a manufacturer's target recycling weight.
- Section 287.17(8)(e), Stats., gives the department authority to modify or add to operational requirements for registered recyclers by rule.
- Section 287.17(10)(i), Stats., gives the department authority to modify the list of eligible electronic devices in s. 287.17(1)(gs), Stats., or the list of electronics banned from landfill or incinerator disposal in s. 287.07(5)(a), Stats., by rule.

4. Related Statutes or Rules:

No other related statutes or rules are in progress.

5. Plain Language Analysis:

Wisconsin's electronics recycling law established a statewide product stewardship program, called E-Cycle Wisconsin, to collect and recycle certain electronics from Wisconsin households and schools (s. 287.17, Stats.). This recycling program is funded by manufacturers of televisions, computers, monitors, printers and video game consoles. These manufacturers must register annually with the Department of Natural Resources (department) in order to sell their products in the state.

Under the law, each registered manufacturer is assigned an annual target weight of electronics it must recycle from Wisconsin households and K-12 schools. Manufacturers work with registered collectors and recyclers to meet their targets. If a manufacturer fails to meet its target, it is assessed a shortfall fee of 30, 40 or 50 cents per pound of deficit, depending on how close it was to meeting the target. A manufacturer may request that the department waive its shortfall fee if it has made "good faith progress" toward meeting its target (s. 287.17(4)(g), Stats.).

The department has promulgated rules at NR 530 to implement the E-Cycle Wisconsin program. The proposed rule updates ch. NR 530, Wis. Adm. Code, to:

- Reflect changes to s. 287.17, Stats., enacted in March 2024 from 2023 Wisconsin Act 108, related to manufacturers' target recycling weights and shortfall fees.
- Make clarifications to code language to reduce confusion and maintain a level playing field among program participants.
- Encourage safe recycling of additional battery-operated devices that are similar to those already eligible to be recycled through E-Cycle Wisconsin.

Calculation of manufacturer target recycling weights

The 2024 statutory revisions changed how manufacturers' target recycling weights are set, so that the total statewide recycling target is tied to the weight of electronics the program recycles. Under the revised s. 287.17 (4) (d), Stats., the department determines each manufacturer's target recycling weight by calculating each manufacturer's market share percentage, then multiplying the percentage by the total weight of eligible electronics received by registered recyclers during the most recently completed program year. The department calculates these targets before the beginning of a program year and communicates them to manufacturers.

As an example, for the 2026 program year, the department calculated manufacturers' market share percentages based on the total weight of covered electronics sold in Wisconsin by all registered manufacturers during 2024. The department then multiplied each manufacturer's market share percentage by the weight of eligible electronics that registered E-Cycle Wisconsin recyclers received for recycling during the 2024 program year. The department provided each registered manufacturer with its 2026 target recycling weight by Aug. 1, 2025.

To provide more certainty for manufacturers regarding their target recycling weights, the proposed rule codifies department procedures for calculating and assigning manufacturer recycling targets under s. 287.17(4) and (5), Stats., including the following:

- By March 1 of each program year, the department is required to re-calculate manufacturers' market share percentages and target recycling weights for that program year based on any additional or updated manufacturer registrations submitted since the initial calculation. For the 2026 program year, this would mean updating target recycling weights by March 1, 2026, based on changes between Aug. 1, 2025, and Jan. 31, 2026.
- Prohibits changes to previously submitted manufacturer sales data after Jan. 31 of a program year, to avoid disruptive changes to previously assigned target recycling weights.
- Requires a manufacturer completing an initial registration during a program year to provide sales data that the department can use to calculate its target recycling weight for that program year, if applicable.

Shortfall fee waiver requests and demonstrating "good faith progress"

2023 Wisconsin Act 108 also directed the department to conduct rulemaking to establish what may constitute "good faith progress" toward meeting a manufacturer's recycling target. The proposed rule establishes minimum criteria for shortfall fee waiver requests, provides examples of how manufacturers can demonstrate they made good faith progress toward meeting their target recycling weight, and criteria the department will use to evaluate waiver requests. The language is similar to an existing external guidance document the department developed at manufacturers' request and reflects input from stakeholders and the department's experience reviewing waiver requests during recent program years.

Clarification of existing requirements

The proposed rule makes minor clarifications to registration and reporting requirements for electronics collectors, including:

- Collectors must only register collection sites they operate.
- Collectors must certify they are in compliance with electronics storage, processing and other management requirements in ch. NR 502, Wis. Adm. Code.

Safe recycling of battery-containing devices

In recent years, improper disposal of rechargeable batteries and battery-containing devices has caused dozens of fires in Wisconsin waste and recycling trucks and facilities. In rules that took effect in July 2023, the department used its authority under s. 287.17(10)(i), Stats., to expand the list of devices eligible for E-Cycle Wisconsin to include several devices that contain rechargeable batteries: telephones with a video display, battery-powered telephone accessories, portable video game devices, and battery-powered video game system accessories.

This proposed rule adds a small number of devices powered by batteries to the list of eligible electronic devices that Wisconsin households and schools may recycle under E-Cycle Wisconsin. These include digital cameras; digital music players; radios; walkie-talkies or similar communications equipment; and small, wearable devices such as fitness trackers and smart watches.

The rule does not require collectors or recyclers to accept these devices. Manufacturers are not required to register these devices or count them in sales data used to determine registration fees and target recycling weights. The devices included are all similar to existing eligible devices, and many registered collectors and recyclers report receiving these devices.

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

There are no existing or proposed federal regulations for electronics recycling.

7. If Held, Summary of Comments Received During Preliminary Comment Period and at Public Hearing on the Statement of Scope:

The department held a virtual preliminary public hearing on the statement of scope on March 7, 2025, and 26 members of the public attended the hearing. No one registered in support or opposition of the scope statement; all 26 attendees stated they were attending the hearing for information only. One person provided public testimony, which is summarized below:

Katie Reilly, representing the Consumer Technology Association (CTA), provided verbal and written comments on the scope statement. She expressed support for the efforts to codify practices for calculating manufacturer targets and for the shortfall fee waiver process. She expressed CTA's concern with adding significantly to the list of devices eligible to be recycled through E-Cycle Wisconsin, particularly for devices (like small appliances) that could add a significant volume to what the program collects and that, in many cases, have different manufacturers than those that are registered with E-Cycle Wisconsin. The verbal comments reflected written comments submitted before the meeting, with an acknowledgement that the public hearing had provided more clarity.

Written Public Comment

The public comment period ended on March 7, 2025. The Department received two written comments on the proposed statement of scope. The written comment from the Consumer Technology Association is summarized above. Wisconsin Manufacturers and Commerce submitted a letter reflecting comments recently submitted on Board Order WA-14-24, noting statutes related to battery collection and the fact that the DNR does not have the authority to create a recycling program for rechargeable batteries by rule.

The comment acknowledged the DNR has confirmed it does not intend to do this under either WA-14-24 or WA-15-24.

Neither of the comments received required changes to the scope statement for this rule. During the rule drafting process, the department collected additional feedback from stakeholders, through a survey, a webinar and an informal comment period, on which types of devices are appropriate for inclusion as eligible devices under the E-Cycle Wisconsin program.

8. Comparison with Similar Rules in Adjacent States:

Three adjacent states (Illinois, Michigan, and Minnesota) have electronics take-back laws. Iowa does not have a similar law. Illinois and Michigan do not set weight-based targets for manufacturers under their laws, and so do not have comparable rules related to setting manufacturer targets or requesting shortfall fee waivers.

Minnesota calculates manufacturer market share percentages and target weights using a formula similar to Wisconsin, but target weights for a given program year are calculated during the program year in which they will apply. If a manufacturer registers after targets are initially calculated, the state calculates a target for the newly registered manufacturer but does not adjust the targets for other manufacturers.

Minnesota also has a statutory provision for shortfall fees and an ability for a manufacturer to request a waiver that is similar to Wisconsin's. Minnesota's statute provides more detail than Wisconsin's about what such a waiver request should include. One requirement is that a manufacturer must have met at least 75% of its target recycling rate, compared with the 50% included in Wisconsin's proposed rule.

Minnesota regulatory agency staff report that they have rarely received waiver requests under this provision.

In terms of eligible devices, most of the proposed additions are not covered in adjacent states' laws. Illinois' law covers digital music players.

9. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

The department collected input from stakeholders in several ways and used this to inform the proposed rule language, along with data collected through E-Cycle Wisconsin participants' registration and annual report forms. Input collection methods included:

- A public comment period on a guidance document the department developed in 2023 regarding manufacturer shortfall fee waiver requests.
- A summer 2025 survey of registered E-Cycle Wisconsin collectors and recyclers about battery-containing devices they receive and potential additions to the list of eligible electronic devices.
- A September 2025 virtual meeting and comment period, during which the department presented many of its initial rule concepts and asked for feedback on specific questions to inform proposed rule language.
- Email consultation with other state electronics recycling program administrators to understand how they interpret and apply language similar to Wisconsin's.

10. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

Of the 92 businesses registered as E-Cycle Wisconsin collectors as of November 2025, the department estimates that approximately one-third were small businesses. Of the 26 registered E-Cycle Wisconsin recyclers, the department estimates approximately one-fifth were small businesses (all of these were also registered collectors). Of the 149 registered E-Cycle Wisconsin manufacturers, the department estimates

approximately 10% were small businesses.

The department does not anticipate the promulgation of this rule to increase costs for these businesses. The goal of the proposed rule language is to clarify requirements established in state statute in March 2024 and make it easier for program participants, including businesses, to comply.

11. Effect on Small Business (initial regulatory flexibility analysis):

The department does not expect the proposed rule language to impose additional requirements on small businesses. The rule language is meant to clarify existing requirements and make compliance easier for all affected businesses.

12. Agency Contact Person: Sarah Murray, (608) 234-0533, sarah.murray@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by regular mail, or email to:

Sarah Murray, WA/5

Department of Natural Resources

PO Box 7921

Madison, WI 53707-7921

(608) 234-0533, sarah.murray@wisconsin.gov

Comments may be submitted to the department contact person listed above or to DNRAdministrativeRulesComments@wisconsin.gov until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the department's website, at <https://dnr.wisconsin.gov/calendar>. Comments may also be submitted through the Wisconsin Administrative Rules Website at <https://docs.legis.wisconsin.gov/code/chr/active>.

RULE TEXT

SECTION 1. NR 530.05 (1) (intro.) is amended to read:

NR 530.05 (1) The department has determined under s. 287.17 (10) (i), Stats., that the disposal or burning of all of the following electronic devices in a solid waste facility may be harmful to human health or the environment and are eligible electronic devices, in addition to those listed under s. 287.17 (1) (gs), Stats.:

SECTION 2. NR 530.05 (1) (d) to (h) are created to read:

NR 530.05 (1) (d) A digital camera operated by a battery.

(e) A digital music player operated by a battery.

(f) A radio operated by a battery.

- (g) A walkie-talkie or similar hand-held communication device operated by a battery.
- (h) A wearable device with internet connectivity, such as a fitness tracker or smart watch, that is operated by a battery. This does not include a medical device inserted into the skin or an electronic device that is embedded in textiles or another wearable product and that is not easily removable from that product.

SECTION 3. NR 530.065 is created to read:

NR 530.065 Determination of manufacturer target recycling weight. (1) DEFINITIONS. In this section:

- (a) “Data year” means the program year that serves as the basis for sales data used to calculate a manufacturer’s market share percentage for the target year.
- (b) “Reporting year” means the program year in which a manufacturer reports to the department its weight of covered electronics sold during the data year, and in which the department first reports calculated target recycling weights for the target year.
- (c) “Target year” means the program year in which calculated target recycling weights will apply.

(2) DETERMINING TARGET RECYCLING WEIGHTS FOR THE TARGET YEAR. The department shall follow the procedures under s. 287.17 (4) (d) 1., Stats., to determine each registered manufacturer’s market share percentage and target recycling weight for the target year and to provide these to each manufacturer by August 1 of the reporting year.

(3) ASSIGNING AND UPDATING TARGET RECYCLING WEIGHTS FOR THE TARGET YEAR AFTER INITIAL DETERMINATION. If a manufacturer submits or amends its registration under s. 287.17 (3) (a), Stats., after the department has determined manufacturer target recycling weights under subd. 2. but before January 31 of the target year, the department shall do all of the following by March 1 of the target year:

- (a) Calculate the manufacturer’s market share percentage as described under s. 287.17 (4) (d) 1. a., Stats.
- (b) If the market share percentage calculated under par. (a) is 0.01 percent or greater, assign a target recycling weight as described under s. 287.17 (4) (d) 1. b., Stats., for the target program year.

(c) If the market share percentage calculated under par. (a) is 0.01 percent or greater, re-calculate the market share percentage and target recycling weight for the target year for all other manufacturers registered under s. 287.17 (3) (a), Stats., as described under s. 287.17 (4) (d) 1., Stats.

(d) Notify affected manufacturers of new or revised target recycling weights for the target year.

(4) ASSIGNING AND UPDATING TARGET RECYCLING WEIGHTS DURING A PROGRAM YEAR. (a)

After January 31 of the target year, no registered manufacturer may amend the weight of covered electronic devices sold during the data year.

(b) If a manufacturer required to register under s. 287.17 (2) (a) 2., Stats., fails to submit a registration during the reporting year and submits a registration under s. 287.17 (3) (a), Stats., after January 31 of the target year, the department shall follow the procedures under s. 287.17 (4) (d) 1., Stats., to calculate the manufacturer's market share percentage and target recycling weight for the target year.

(c) If a manufacturer's market share percentage calculated under par. (b) is greater than 0.10 percent, the department may recalculate the market share percentage and target recycling weight for the target year for all other manufacturers registered under s. 287.17 (3) (a), Stats., as described under s. 287.17 (4) (d) 1., Stats., and notify affected manufacturers of any changes.

SECTION 4. NR 530.07 (3) is created to read:

NR 530.07 (3) If a manufacturer failed to submit a registration during the previous program year and sold covered electronic devices in Wisconsin during that period, the manufacturer shall also report one of the following to the department with its registration under s. 287.17 (5) (a), Stats.:

(a) The total weight of each model of the manufacturer's covered electronic devices sold to households or covered schools during the program year that began two years before the program year for which the registration is submitted.

(b) The total weight of all of the manufacturer's covered electronic devices sold to households or covered schools during the program year that began two years before the program year for which the registration is submitted.

(c) An estimate, based on national sales data, of the total weight of the manufacturer's covered electronic devices sold to households or covered schools during the program year that began two years before the program year for which the registration is submitted.

SECTION 5. NR 530.075 is created to read:

NR 530.075 Waivers for registered manufacturer shortfall fees. (1) MINIMUM

REQUIREMENTS FOR SHORTFALL FEE WAIVER REQUESTS. A registered manufacturer submitting a request for relief from shortfall fees under s. 287.17 (4) (g), Stats., shall meet all of the following requirements:

(a) Prior to submitting a request, the manufacturer shall notify the department once it determines that it will not meet its target recycling weight for a program year.

(b) The request shall be submitted to the department in writing by the manufacturer registered under s. 287.17 (3), Stats.

(c) The manufacturer shall submit the request with its annual registration under s. 287.17 (3), Stats. If a manufacturer did not determine it would have a shortfall until after submitting its annual registration, it shall submit the request once it becomes aware of the shortfall and no latter than April 30 of the year in which the annual registration is due..

(d) The request shall include, at a minimum, all of the following:

1. Documentation demonstrating that the manufacturer has made good faith progress toward meeting its target recycling weight, as required under sub. (2).

2. A description of any unexpected circumstances that prevented the manufacturer from meeting its target recycling weight.

3. A plan to address the issues that led to the shortfall and avoid a shortfall in the future.

(2) DEMONSTRATION OF GOOD FAITH PROGRESS. A manufacturer shall provide documentation of all of the following to demonstrate good faith progress toward meeting its target recycling weight:

(a) Before the end of the program year, the manufacturer had a contract or other written agreement, with one or more registered recyclers or authorized brokers to meet the manufacturer's target recycling weight.

(b) Once it learned of the potential shortfall, the manufacturer, or an authorized broker or recycler working on the manufacturer's behalf, notified the department and requested information about potential alternative methods of meeting the manufacturer's target recycling weight.

(c) The manufacturer, or an authorized broker or recycler working on the manufacturer's behalf, took one or more of the following steps toward meeting its target recycling weight during or after the program year:

1. Established additional registered collection sites or events.
2. Increased collection at existing sites or events through advertising, reducing fees, or other methods.
3. Purchased or attempted to purchase additional recycled weight from other recyclers or authorized brokers.
4. Purchased or attempted to purchase credits from other manufacturers.
5. Took similar, alternative, or additional actions that it believes demonstrate good faith progress.

(d) The manufacturer has met at least 50 percent of its target recycling weight.

(e) If applicable, an explanation of why the manufacturer is unable to provide documentation of any requirement under pars. (a) to (d).

(3) CRITERIA FOR EVALUATION OF WAIVER REQUESTS. The department shall consider the following when determining whether a manufacturer has demonstrated good faith progress toward meeting its target recycling weight:

- (a) Whether the manufacturer met all of the requirements under sub. (1).
- (b) Whether the documentation the manufacturer provided under sub. (2) is adequate for the department to reasonably determine whether the manufacturer made good faith progress toward meeting its target recycling weight.
- (c) Whether the total recycled weight available for manufacturers to purchase for the program year was less than the total recycling target.
- (d) Whether the shortfall was the result of a recordkeeping or reporting error made by a collector, recycler, or authorized broker, or the recycler or authorized broker did not notify the manufacturer of the shortfall until after the end of the program year.

(e) Whether there were circumstances beyond a manufacturer's control such as a reduction in collection sites or events due to a local or statewide declared emergency.

SECTION 6. NR 530.08 (1) (b) 2. is amended to read:

NR 530.08 (1) (b) 2. The site name, street address, and county for any location operated by the collector where the collector accepts eligible electronic devices used by households, and a phone number that households may call for more information about the location.

SECTION 7. NR 530.08 (1) (b) 5. is created to read:

NR 530.08 (1) (b) 5. A certification that the collector has complied, and will continue to comply, with the requirements of this section and all applicable solid waste requirements under ch. NR 502.

SECTION 8. NR 530.13 (1) is amended to read:

NR 530.13 (1) REASONS FOR SUSPENSION. The department may suspend the registration of a collector under s. 287.17 (7), Stats., for failure to comply with any of the requirements under s. 287.17 (7), Stats., or failure to comply with applicable requirements under this chapter or ch. NR 500, 502, or 520. The department may suspend the registration of a recycler under s. 287.17 (8), Stats., for failure to comply with any of the requirements under s. 287.17 (8), Stats., or failure to comply with applicable requirements under this chapter or ch. NR 500, 502, or 520.

SECTION 9. 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.

SECTION 10. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN DNR

DEPARTMENT OF NATURAL RESOURCES

BY _____

Steven Little, Deputy Secretary

For Karen Hyun, Ph.D., Secretary