

CR 92-47



George E. Meyer
Secretary

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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STATE OF WISCONSIN)
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DEPARTMENT OF NATURAL RESOURCES) ss

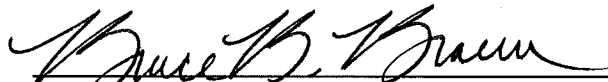
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. AM-10-92 was duly approved and adopted by this Department on October 29, 1992. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 23rd day of February, 1993.

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Bruce B. Braun, Deputy Secretary

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5-1-93



ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
CREATING RULES

.....
IN THE MATTER of creating ch. NR 488 of the
Wisconsin Administrative Code pertaining to the AM-10-92
recovery of ozone-depleting refrigerants from
salvaged or dismantled refrigeration equipment
.....

Analysis Prepared by the Department of Natural Resources

Authorizing Statutes: ss. 144.31(1)(a), 144.38, 144.422, and 227.11(2)(a),
Stats.

Statute interpreted: s. 144.422, Stats.

1989 Wisconsin Act 284, amended by 1991 Wisconsin Act 97, created laws relating to the control of ozone-depleting refrigerants. Under those laws, the Legislature found that the release of chlorofluorocarbons (CFCs), commonly used as solvents and refrigerant fluids, into the earth's atmosphere is reducing the concentration of ozone in the atmosphere which in turn causes an increase in solar ultraviolet radiation at the earth's surface.

This increase in ultraviolet intensity can cause an increase in human skin cancer and eye cataracts, suppression of the human immune systems, a decrease in crop yields and damage to marine phytoplankton. Additionally, CFC releases may contribute significantly to the global greenhouse effect.

As part of the Acts, the Legislature created s. 144.422., Stats., which contains requirements to limit CFC releases during the salvaging or dismantling of equipment utilizing these substances as refrigerants, such as vehicle air conditioners, refrigerators, freezers and some commercial air conditioning and refrigeration units.

Under s. 144.422, Stats., persons who perform this salvaging or dismantling, including state agencies, must certify to the Department that they transfer ozone-depleting refrigerants into storage tanks. Equipment for this transfer must be approved by the Department and operated by individuals who have, or are working under the supervision of someone who has, the qualifications established by the Department by rule.

Section 144.422, Stats., also prohibits the knowing or negligent release of ozone-depleting refrigerants to the environment during the salvaging, dismantling or transporting of refrigeration equipment, except for minimal releases that occur as a result of their transfer into storage tanks. Releases from storage tanks are also prohibited.

Additionally, the statute requires any person who sells, gives or transports salvaged refrigeration equipment to a scrap metal processor to provide documentation to the processor that they or another person has performed the proper refrigerant removal, unless the scrap metal processor agrees in writing to perform that refrigerant recovery.

Finally, any person who transports refrigeration equipment for the purposes of salvaging or dismantling must certify that they do not knowingly or negligently release ozone-depleting refrigerants to the environment. Individuals who transport their personal refrigeration equipment are exempted.

The Department of Natural Resources is responsible for administering s. 144.422, Stats., and is directed to promulgate rules for that purpose. Chapter NR 488, Wisconsin Administrative Code, interprets s. 144.422, Stats. The rule requires persons who salvage or dismantle refrigeration equipment to register annually with the Department to certify their refrigerant recovery activities, as required in the statute, and to provide other information demonstrating compliance.

The rule establishes standards for approval of equipment to recover ozone-depleting refrigerants and training requirements for individuals who may operate or supervise the operation of this equipment. Requirements are established for approval of training programs.

The rule requires persons who transport refrigeration equipment for salvage purposes to certify annually that they will not knowingly or negligently release ozone-depleting refrigerant to the environment.

The rule requires the provision of documentation as described above to assure that ozone-depleting refrigerants are removed from salvaged refrigeration equipment before it is processed for scrap metal.

The rule sets fees for registration of salvagers, safe transport certification and training program approval, as allowed in s. 144.422, Stats., to provide revenue for program administration. The rule also restates the penalties contained in s. 144.422, Stats..

SECTION 1. Chapter NR 488 is created to read:

Chapter NR 488

REFRIGERANT RECOVERY FROM
SALVAGED OR DISMANTLED REFRIGERATION EQUIPMENT

NR 488.01	Applicability; Purpose	NR 488.08	Qualifications of individuals who use approved refrigerant recovery equipment
NR 488.02	Definitions	NR 488.09	Approval of training programs
NR 488.03	Prohibitions	NR 488.10	Safe Transport Certification; Exemptions
NR 488.04	Registration; Expiration	NR 488.11	Fees
NR 488.05	Conveyance to scrap metal processors; Exemption	NR 488.12	Penalties
NR 488.06	Recordkeeping		
NR 488.07	Approval of refrigerant recovery equipment		

NR 488.01 APPLICABILITY; PURPOSE. (1) APPLICABILITY. This chapter applies to any person who salvages or dismantles mechanical vapor compression refrigeration equipment, any person who transports such equipment for salvaging or dismantling, any individual who uses or supervises the use of equipment to transfer ozone-depleting refrigerants from salvaged or dismantled mechanical vapor compression refrigeration equipment into storage tanks, any person who conducts a program to train operators of refrigerant recovery equipment and any person who conveys mechanical vapor compression refrigeration equipment to a scrap metal processor for metal recovery.

(2) PURPOSE. The purpose of this chapter is to establish, pursuant to s. 144.422, Stats., requirements for the recovery of ozone-depleting refrigerants from salvaged or dismantled mechanical vapor compression refrigeration equipment.

NR 488.02 DEFINITIONS. The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(1) "Approved refrigerant recovery equipment" means any equipment approved under s. NR 488.07 for refrigerant recovery.

(2) "Ozone-depleting refrigerant" has the meaning given in s. 100.45 (1)(d), Stats.

Note : "Ozone-depleting refrigerant" is defined in the referenced statute as "a substance used in refrigeration that is or contains a class I substance, as defined in 42 USC 7671 (3)." Examples of ozone-depleting refrigerants include, but are not limited to, R-11, R-12, R-113, R-114, R-115, R-500, and R-502.

(3) "Refrigerant recovery" means the transfer of ozone-depleting refrigerant from refrigeration equipment to an external container.

(4) "Refrigeration equipment" means any mechanical vapor compression device designed to contain and utilize an ozone-depleting refrigerant including, but not limited to, motor vehicle air conditioners, industrial and commercial cooling and ice-making equipment, large building cooling systems and home appliances such as refrigerators, freezers, room and central air conditioners, and dehumidifiers.

(5) "Salvage or dismantle" means to prepare entire units of refrigeration equipment, which have been removed permanently from service, for disposal. Treatment of portions of refrigeration equipment for the purpose of service or repair is not considered salvaging or dismantling.

(6) "Scrap metal processor" has the meaning given in s. 84.31 (2) (h), Stats.

Note: "Scrap metal processor" is defined in the referenced statute as "a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes."

NR 488.03 PROHIBITIONS. (1) During the salvaging, dismantling or transporting of refrigeration equipment, no person may knowingly or negligently release ozone-depleting refrigerant to the environment, except for minimal releases that occur as a result of efforts to transfer ozone-depleting refrigerant into storage tanks.

(2) No person may knowingly or negligently release from a storage tank to the environment ozone-depleting refrigerant that was removed during the salvaging, dismantling or transporting of refrigeration equipment, except for minimal releases that occur as a result of efforts to transfer ozone-depleting refrigerant into refrigeration equipment or other storage tanks.

(3) No person may salvage or dismantle any refrigeration equipment unless:

(a) That person holds and prominently displays an annual registration of certification obtained from the department under s. NR 488.04;

(b) That person uses refrigerant recovery equipment approved by the department under s. NR 488.07 to transfer remaining ozone-depleting refrigerant from each piece of refrigeration equipment into storage tanks; and

Note: Tanks used to transport or store recovered refrigerant should meet the appropriate federal department of transportation requirements as specified in Title 49 of the Code of Federal Regulations.

(c) Individuals who use the approved refrigerant recovery equipment have, or are working under the direct supervision of individuals who have, the qualifications required under s. NR 488.08.

NR 488.04 REGISTRATION; ISSUANCE; EXPIRATION. (1) REGISTRATION. In order to obtain an annual registration of certification to salvage or dismantle refrigeration equipment, as required under s. NR 488.03 (3) (a), a person shall submit an application on forms supplied by the department along with the fee required under s. NR 488.11, and certify to the department that:

(a) Remaining ozone-depleting refrigerants will be transferred from each piece of refrigeration equipment into storage tanks using approved refrigerant recovery equipment and procedures which will minimize the release of ozone-depleting refrigerants to the environment; and

(b) Individuals who use the approved refrigerant recovery equipment have, or are working under the direct supervision of individuals who have, the qualifications required under s. NR 488.08.

(2) ISSUANCE. The department shall issue the registration of certification within 30 days of receipt of a completed application and the fee required under s. NR 488.11.

(3) EXPIRATION. Registrations issued by the department under sub. (2) shall expire one year after the date of issuance.

Note: Requests for forms for registration under this section, and other items listed in this rule, should be directed to: Bureau of Air Management CFC Program, Department of Natural Resources, PO Box 7921, Madison, WI 53707.

NR 488.05 CONVEYANCE TO SCRAP METAL PROCESSORS; EXEMPTION. (1) CONVEYANCE TO A SCRAP METAL PROCESSOR. Any person who sells, gives or transports refrigeration equipment to a scrap metal processor shall:

(a) Transfer ozone-depleting refrigerant from the refrigeration equipment into a storage tank using approved refrigerant recovery equipment or obtain and possess documentation that another person performed the transfer; and

(b) Provide documentation to the scrap metal processor that he or she has complied with par. (a).

Note: Sample forms for this documentation are available from the Bureau of Air Management CFC Program.

(2) EXEMPTION. Sub. (1) does not apply to a person who sells, gives or transports refrigeration equipment to a scrap metal processor when that processor has agreed in writing to transfer the ozone-depleting refrigerant into a storage tank using approved refrigerant recovery equipment and is registered with the department under s. NR 488.04.

NR 488.06 RECORDKEEPING. (1) SALVAGER OR DISMANTLER. Persons registered under s. NR 488.04 shall keep records of their refrigerant recovery activities. These records shall be kept for 3 years, shall be made available to the department upon request and shall include:

(a) A training certificate for each individual certified to operate approved refrigerant recovery equipment under s. NR 488.08;

(b) The brand, model number and serial number of each piece of approved refrigerant recovery equipment used for refrigerant recovery;

(c) The type and quantity of refrigeration equipment salvaged or dismantled; and

(3) Approval of a training program shall expire 3 years after the date of approval.

Note: A list of approved training programs is available from the Bureau of Air Management CFC Program.

NR 488.10 SAFE TRANSPORT CERTIFICATION; EXEMPTIONS. (1) SAFE TRANSPORT CERTIFICATION. Any person who transports, for the purposes of salvaging or dismantling, refrigeration equipment that contains ozone-depleting refrigerant shall certify to the department that that person will not knowingly or negligently release ozone-depleting refrigerant to the environment, except for minimal releases that occur as a result of refrigerant recovery efforts. This certification shall be submitted annually, along with a description of the safe transport methods to be used, and the fees required under s. NR 488.11. The department shall provide a receipt acknowledging the submission of this certification and fees.

Note: Forms for this certification and description are available from the Bureau of Air Management CFC Program.

(2) EXEMPTIONS. The certification requirement in sub. (1) does not apply to:

(a) An individual who transports his or her personal refrigeration equipment; or

Note: Individuals are prohibited from releasing ozone-depleting refrigerants in s. NR 488.03 (1).

(b) Any person transporting a vehicle, for the purposes of salvaging or dismantling, in a manner which will not interfere with the refrigeration equipment of the vehicle, including transporting vehicles on their own wheels, by tow trucks or secured on a vehicle specifically designed to transport motor vehicles.

NR 488.11 FEES. (1) Any person applying for registration under s. NR 488.04, approval of training programs under s. NR 488.09 or certifying safe transport under s. NR 488.10 shall pay the applicable fee or fees as follows:

(a) Persons applying for annual registration of certification to salvage or dismantle refrigeration equipment under s. NR 488.04 shall submit a nonrefundable fee of \$250.00, except as provided under par. (b).

(b) Persons applying for annual registration to salvage or dismantle refrigeration equipment under s. NR 488.04 and who are already registered for refrigerant recovery with the department of agriculture, trade & consumer protection under ch. Ag 136 or the department of industry, labor & human relations under ch. ILHR 45 and who salvage or dismantle as a minor activity

incidental to providing service to their customers shall submit a nonrefundable fee of \$125.00.

(c) Persons requesting approval of a training program under s. NR 488.09 shall submit a nonrefundable fee of \$500.00.

(d) Persons certifying safe transport of refrigeration equipment for the purposes of salvaging or dismantling under s. NR 488.10 shall submit:

1. An annual, nonrefundable fee of \$75.00, and
2. An annual, nonrefundable fee of \$25.00 times the number of vehicles to be used during the next year for safe transport of refrigeration equipment for the purposes of salvaging or dismantling.

(2) Persons applying for annual registration under sub. (1) (a) or (b) are not required to submit the fee under sub. (1) (d) 1, but shall submit the fee required under sub. (1) (d) 2.

NR 488.12 PENALTIES. (1) Any person who salvages or dismantles refrigeration equipment in violation of s. NR 488.03 (3) shall forfeit not less than \$100 nor more than \$1000. Each act of salvaging or dismantling in violation of s. NR 488.03 (3) constitutes a separate violation.

(2) Any person who sells, gives or transports refrigeration equipment to a scrap metal processor in violation of s. NR 488.05 shall forfeit not less than \$100 nor more than \$1000. Each unit sold, given or transported in violation of s. NR 488.05 constitutes a separate violation.

(3) Any person who releases ozone-depleting refrigerant in violation of s. NR 488.03 (1) or (2) or who transports refrigeration equipment in violation of s. NR 488.10 (1) shall forfeit not less than \$100 nor more than \$1000. Each release in violation of s. NR 488.03 (1) or (2) or transport in violation of 488.10 (1) constitutes a separate violation.

The foregoing rule was approved and adopted by the state of Wisconsin Natural Resources Board on October 29, 1992.

The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin

February 23, 1993.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

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