

Vote Record

AB 907
26

Assembly Committee on Environment

Date: _____
 Moved by: DUFF Seconded by: WEDZIE
 AB: 907 Clearinghouse Rule: _____
 AB: _____ SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
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Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Marc Duff, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tim Hoven	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. DuWayne Johnsrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Eugene Hahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Lorraine Seratti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Peter Bock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Judy Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Spencer Black	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John La Fave	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 10 0 _____

Motion Carried

Motion Failed

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive, P.O. Box 8911

Madison, WI 53708-8911

DATE: January 16, 1998

TO: State Senator Robert Cowles
Dave Staber, C.A.R.S. of Wisconsin
Forbes McIntosh, Broydrick & Associates
Lance Green, Air Management, Dept. of Natural Resources

FROM: Tom Stoebig, Environment & Product Safety Section, Consumer Protection Bureau

SUBJECT: New EPA Regulations and Subsequent Conflicts with State Law Relating to the Sale of Recovered Refrigerant from Motor Vehicle Air Conditioners

The U.S. Environmental Protection Agency adopted federal rule changes under Section 609 of the Clean Air Act Amendments which take effect on January 29, 1998.

Many of the federal regulations parallel current Wisconsin regulations and practices that have been in place since 1994. However, one change clearly conflicts with s. 100.45, Stats., related to the sale and use of recovered refrigerant.

There are both environmental and economic gains to be realized by changing state law to lessen current restrictions on the sale of used, recovered refrigerant from motor vehicle air conditioning (MVAC) systems.

Background

Originally, Wisconsin law was less restrictive with regard to the sale and use of recovered refrigerant. As enacted under 1989 WI Act 284, s. 100.45(3)(b) required only that a business which sells used refrigerant removed from a MVAC system must be able to certify the following:

- * That the business or another person recycles the refrigerant using approved equipment.
- * That persons using approved refrigerant recycling equipment have completed approved training programs and possess technician certification credentials.

However, the first round of federal regulations (40 CFR Part 82 Subpart B) implementing the 1990 Clean Air Act Amendments imposed sharp restrictions on the sale or transfer of recovered refrigerant from mobile air conditioners.

Under these federal regulations, any used refrigerant recovered from MVAC systems which changes possession was required to be sent to an approved reclamation facility.

Furthermore, refrigerant recovered from MVAC systems could only be recycled off-site if "the refrigerant is extracted using recover-only equipment, and is subsequently recycled off-site with equipment owned by the person that owns both the recover-only equipment, and owns or operates the business at which the refrigerant was extracted."

This federal regulation was used as rationale to change ss. 100.45(3)(c) and 100.45(4)(c), Stats. These changes were approved as part of 1993 WI Act 243, and are the focus for changes again in light of new federal regulations.

Rationale for Statutory Revisions

Previously, the EPA required refrigerant removed from motor vehicles bound for disposal to be sent to an approved reclamation facility, rather than sold as used refrigerant and recycled prior to reuse in another motor vehicle. Unfortunately, few reclamation facilities accept refrigerant from these sources. Those that do either charge a fee, or offer payment well below fair market values.

- Effective January 29, 1998, federal regulations will explicitly allow trained and certified technicians who recover refrigerant from motor vehicles located at salvage yards to take the refrigerant off-site and recycle it at their service facilities for reuse in other motor vehicles. The federal regulations will also allow auto salvage operators to recover and sell used refrigerant from motor vehicles to certified technicians.

Currently, the lack of legal markets for used refrigerant from vehicle salvage operations has discouraged salvagers and others to recover this refrigerant, and quite possibly, has encouraged the venting of refrigerant into the atmosphere from vehicles bound for disposal. Allowing salvage operators to resell used refrigerant to MVAC repair and servicing businesses registered with DATCP will create new economic markets for motor vehicle salvagers, as well as a new source of refrigerant for repair and service shops.

Proposed Statutory Changes

Suggested statutory changes to remove current conflicts with new federal regulations and allow greater flexibility with regard to the sale of used refrigerant are as follows:

- * Revise s. 100.45(3)(c)4. to include as an option the conveyance of recovered refrigerant to a DATCP-registered business for recycling and reuse in another motor vehicle.

- * Delete s. 100.45(3)(c)5. that refers to an annual registration certificate in this specific situation related to refrigerant sales.
- * Revise s. 100.45(4)(c)1. to delete language that restricts the off-site recycling of refrigerant recovered from a mobile air conditioner or trailer refrigeration equipment.
- * Delete reference to annual registration certification requirements for refrigerant sales under 100.45(5)(c).

Attached is a copy of s. 100.45, Stats., with suggested deletions and additions.

February 20, 1998

Mr. George Meyer, Secretary
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Dear Secretary Meyer:

Re: Proposed EPA SIP Call Rule to Address Ozone Transport

Dairyland Power Cooperative would like to take this opportunity to offer our comments on Wisconsin's interagency State Implementation Plan (SIP) call review that the Wisconsin Department of Natural Resources (DNR) has initiated. We have previously offered you joint comments with the Wisconsin Utilities Association. We now wish to offer our specific perspectives on EPA's proposed ozone transport SIP call and the potential consequences to Dairyland Power Cooperative and its 200,000 customers of this rule development. I have also discussed these concerns previously with Ms. Lloyd Eagen, your Air Bureau Director. Ms. Eagen seemed sympathetic to our concerns and encouraged me to follow up with you.

Dairyland Power Cooperative is a generation and transmission cooperative headquartered in La Crosse, Wisconsin, and serves customers in Wisconsin, Iowa, Minnesota, and Illinois. All of our electric generation sources are in Wisconsin, and comprise mostly coal fired generation. We operate an extensive transmission network throughout these four states as well. Our combined transmission and generation systems form the critical electrical supply for most of Western Wisconsin.

It is our general opinion that EPA's proposed ozone transport rule is not designed to solve the problem of ozone non-attainment, does not properly place the needed Nitrogen Oxide emission (NOx) reductions where they will be effective, and improperly seeks reductions in locations which do not significantly impact any ozone non-attainment area. The EPA proposal seems to ignore the conclusion of the Ozone Transport Assessment Group, of which Wisconsin was a significant participant, that local reductions are very important in helping a non-attainment region reach attainment. Further, OTAG demonstrated that long range transport of ozone precursors were not as significant as had been earlier thought, and this effect was definitely diminished with increasing distance. Therefore, a spatially phased approach, the coarse grid/fine grid, was recommended. OTAG further demonstrated that the states located south of Wisconsin were mostly responsible for southeast Wisconsin ozone non-attainment, predominately Illinois and Indiana, but also some contribution from Missouri and Iowa. Yet, EPA proposed a "one size fits all" control program, at the highest point on the cost of control effectiveness curve, and then determined that two of our neighboring states, Iowa and Minnesota, were not "significant contributors" to Wisconsin's ozone non-attainment.

The Dairyland Power Generating units should not be included in the proposed NOx reduction program.

The OTAG effort developed a coarse grid/fine grid emission inventory system which was designed to model the reality that sources north of 44 degrees latitude probably did not significantly contribute to any ozone non-attainment area. The OTAG also demonstrated that there was a western boundary of the fine grid which also represented the reality that transported emissions impacts diminish with increasing distance. The western boundary of the fine grid included parts of eastern Minnesota and eastern Iowa. However, EPA determined in their proposed SIP rule that Minnesota and Iowa WERE NOT significantly contributing to Wisconsin's ozone non-attainment area. Assuming then that EPA has determined that these states are not culpable for ozone impacts, it logically follows that the DPC generating units, located on the eastern bank of the Mississippi River, about 2 miles from the states of Minnesota and Iowa, with DPC emissions many times LESS than the Minnesota and Iowa sources are also not significantly impacting downwind states or southeast Wisconsin's ozone non-attainment area. Discussion with your technical modeling staff has also confirmed that DPC power plants are not significant contributors. If EPA has determined that sources in Minnesota and Iowa are not significant contributors to ozone non-attainment, then it follows that the DPC sources are not significant contributors as well. Incidentally, I note that the sources in Iowa which were eliminated by EPA in the proposal are actually further east than DPC's generating units. Accordingly, I have recommended to Ms. Eagen that the control area within Wisconsin should be south of the 44 degree N latitude line, and east of the 91 degree W longitude line.

The Growth Factor assumed by EPA for Wisconsin is inadequate.

The EPA has proposed to apply growth factors in the individual states 2007 budgets for NOx reductions. The higher the growth factor, in effect, the lower the budgeted NOx reduction requirements. We understand that EPA has recently revised these growth factors. The new growth factors for Illinois and Indiana are 34 percent and 30 percent, respectively. Wisconsin's growth factor is 13%. The Wisconsin utilities have forecasted much higher growth factors in Advance Plan 8, however, these forecast growth rates were apparently ignored by EPA. In fact, Iowa and Minnesota have growth rates of 41% and 57%, respectively, and these states are not proposed to be included in the NOx reduction program. Now, two things strike me. First, what is Wisconsin doing wrong with its economic policies, that every one of our surrounding states has been forecast to beat us economically, by two to four times over the next nine years? Second, Wisconsin sources will have to add emission control technology which will increase the costs of our products, while Iowa and Minnesota competitors, who are already forecast to beat us, do not have to make any financial expenditures for emission controls. I would think this would definitely be a point of discussion between Wisconsin and the EPA.

The Proposed NOx reduction requirements will create unreasonable costs and reliability impacts on our already stressed Wisconsin generation and transmission systems.

We have evaluated the costs of adding post combustion Selective Catalytic Reduction

Controls to our Genoa #3 and J. P. Madgett plants, and adding low NOx burner technology to our Alma units which would be necessary to satisfy EPA's proposal. While the analysis is not complete, it is estimated that our costs are about \$80 million in capital needs, and an additional \$14 million in annual costs. This would have the effect of raising our costs of generation by about 9 percent. As deregulation approaches, we have been reducing our cost of power to remain competitive within our power pool. Dairyland is a member of the Mid Continent Area Power Pool, which is the reliability pool which includes Western Wisconsin, Minnesota, Iowa, and other states west. DPC is the only Wisconsin utility that will be significantly impacted by this rule, that also competes in the MAPP pool. Therefore, as a result of this EPA proposal, our costs could increase by 9 percent, while our direct competitors in Minnesota and Iowa have no corresponding cost impact. Compounding this is the fact that DPC impacts on ozone non-attainment areas are LESS than the much larger NOx sources in Iowa and Minnesota, which EPA has determined are insignificant contributors. Our proposal for the control region bounded by 44 degree latitude and 91 degrees longitude, identified in our comments above would alleviate our concerns.

The NOx control costs identified above are very significant to DPC. Accordingly, we have evaluated alternatives. One alternative is to simply not generate. The ozone control season is May through September. We could simply make an economic, market decision not to generate our own power at our Wisconsin facilities, but rather buy power from our competitors, (in Iowa and Minnesota), and import it over our transmission system. The option does have some drawbacks. First, it could result in a similar situation as the Eastern Wisconsin power shortage problem that Wisconsin faced last summer with several nuclear units out of service and a transmission system that was not designed to operate without the support that those generators provide. Second, it is the summer time when our existing generation and transmission system could already be expected to be constrained. Third, it looks like there would be no real net air quality benefit, since we would just be moving the NOx emissions from DPC units into the uncontrolled states directly to the west of Wisconsin, resulting in emissions transport back into Wisconsin.

We have evaluated the costs of building sufficient new transmission capacity into the Western Wisconsin area, assuming it would be permitted by the DNR and Public Service Commission and other agencies, to allow the summer season shutdown of our Alma and J.P. Madgett generating plant facilities. As one might expect, the costs are EXTREMELY prohibitive, and we are informed by our transmission planning engineers, that even with the new transmission lines, the system would not be as reliable as the existing system with the generation facilities in operation. Thus we could have the position of not being able to afford to operate the units with the NOx reduction controls, and not being able to operate without them! This situation is an unhappy result of the EPA's non-uniform application of NOx reduction requirements meeting the realities of deregulation.

Wisconsin's participation in EPA's control program is questionable.

It is clear by review of the OTAG information and Wisconsin's extensive monitoring of atmospheric transport of ozone, that most of Wisconsin's ozone non-attainment problem is imported from the south and southeast. It is also clear that Wisconsin sources themselves are

relatively small contributors to other states' ozone non-attainment. The only possible state that Wisconsin could be affecting would be Michigan, based upon the meteorology, and geographical location of Wisconsin. In fact, in 1994, the Lake Michigan Ozone Study (LMOS), of which Wisconsin is a participant, demonstrated that substantial amounts of ozone related air pollutants drift into the Lake Michigan region from the south and southeast. In the February 3, 1998, Federal Register, EPA agreed with the findings of the LMOS, and stated that "Weather conditions which typically produce high levels of ozone in the western Michigan area feature winds generally from the south to southwest. NOx controls in Wisconsin have a minimal affect on air quality in western Michigan during these high ozone episodes. The LADCO modeling demonstrates that air quality benefits in western Michigan occur primarily as a result of NOx controls in Illinois and Indiana." While this conclusion was in reference to low level NOx emissions, it applies equally to elevated source emissions of NOx, as the wind directions are the important factor. It is our opinion that Wisconsin, and most certainly western Wisconsin, should have been exempted by EPA from consideration of further NOx reductions in the same way as Minnesota and Iowa.

We believe that we have raised several significant points that the State of Wisconsin needs to incorporate into their response to the EPA's proposed ozone transport SIP rule. As the DNR moves forward with its comments, and implementation of the outcome of this rule, we ask that DNR begin now to accomplish necessary source receptor culpability air quality modeling. The modeling should determine the source receptor relationships that will demonstrate culpability in the ozone non-attainment areas, and lead to a control program which is designed to solve the problem, rather than a "one size fits all" that will not solve the ozone non-attainment problem. We also ask that this modeling demonstrate the ambient impact of DPC's units on the non-attainment areas such that these impacts can be legally determined to be "significant", or insignificant, before subjecting our units to emission control requirements. We further ask that sources in Iowa and Minnesota also be modeled, and that those sources also be controlled if their impact is found to be "significant." Finally, we would like to know what the definition of "significant" impact is.

On behalf of Dairyland Power Cooperative, I would like to express my appreciation for the opportunity to share our thoughts with you on EPA's rule proposal. Thank you for consideration of these matters. Please feel free to contact me for clarification on any of the issues and concerns I have raised.

Sincerely,

DAIRYLAND POWER COOPERATIVE

Eric Hennen
Director, Environmental Affairs

ERH:no

cc: Governor Tommy Thompson
Commissioner Cheryl L. Parrino

Commissioner Daniel J. Eastman
Commissioner Joseph P. Mettner
Secretary Mark D. Bugher
Secretary William J. McCoshen
Secretary Charles H. Thompson
Ms. Lloyd Eagen, WDNR

bcc: B. Berg
H. Frank
S. Hynek
J. Leifer
D. McKee
B. Roddy
C. Sans Crainte
T. Steele
L. Thorson

**TOMMY G. THOMPSON****Governor
State of Wisconsin**

February 27, 1998

Carol Browner, Administrator
US Environmental Protection Agency
USEPA Headquarters
401 M Street, SW (101)
Washington, DC 20460

Dear Ms. Browner:

As you know, Wisconsin has taken significant steps to address our ozone problem, but despite our best efforts, we will never be able to meet ozone standards without receiving significant reductions in the ozone transported into Wisconsin. Your agency's proposal to limit NOx emissions in 22 states is a significant step. However, there are two concerns I would like to bring to your attention in hopes that appropriate improvements can be made to this process.

First, the current 120 day comment period, established for this complex and controversial rule making, is too restrictive. Throughout the Ozone Transport Assessment Group (OTAG) process, EPA staff assured the states there would be adequate time to complete additional regional scale modeling. A 120 day comment period precludes states from completing a thorough modeling analysis. Additionally, states did not receive the SIP call inventory until late January 1998. Not only does this make it difficult to complete any regional modeling, but it makes it difficult to comment on the efficacy and accuracy of the EPA's NOx budget calculations by March 9, 1998. Given this background, I urge you to extend the comment period until at least August 1, 1998, to allow stakeholders time to develop comments on the proposed SIP call based on solid scientific information and a comprehensive evaluation.

The second issue relates to the need for states to submit attainment demonstrations for the one-hour ozone standard by April 30, 1998. This requirement apparently stems from EPA's March 2, 1995, guidance memo, the same guidance that created OTAG. Much has transpired since EPA issued that guidance including promulgation of a new eight-hour ozone standard. I do not understand the need to continue developing a plan for a one-hour ozone standard that has been replaced by a new eight-hour standard. In addition, it seems unreasonable to require states to submit attainment demonstrations in the absence of a final rule on ozone transport, which will define what reductions in ozone transport states can expect.



Room 115 East, State Capitol, P.O. Box 7863, Madison, Wisconsin 53707 • (608) 266-1212 • FAX (608) 267-8983

February 27, 1998
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Furthermore, EPA's guidance for the one-hour attainment plan indicates the states do not have to do any more modeling analyses. Given the problems and the short time frame for submitting this plan, I believe this effort will not produce meaningful results.

Unfortunately, the current one-hour attainment demonstration process requires a significant commitment of state and EPA resources, serves to mobilize opposition to the clean air effort and commits states to actions which, in practice, may not come to pass. This diverts time away from more important air quality efforts such as developing our ozone transport reduction plan.

I understand the EPA must work within the legal constraints in the Clean Air Act. However, EPA has already used their authority to extend the deadline for the one-hour attainment demonstration. I suggest you use it again to meld the one-hour attainment demonstrations with the requirements for the transport reduction plan. There are three important benefits to this strategy:

1. It most efficiently uses scarce EPA and state resources.
2. States will have more time to take a thoughtful approach to the one-hour attainment demonstration and develop meaningful plans.
3. States will have the advantage of knowing what to expect from reduced transport into our region before we develop a local attainment plan.

I know this effort to reduce transport will result in a very significant air quality improvement and I, therefore, support your proposal to reduce transported ozone in the eastern United States. However, please afford states sufficient the time to provide comments based on thoughtful, high quality and technically sound analyses.

Thank you for considering these comments. Should you or your staff wish to discuss these perspectives in more detail, please contact George Meyer the Secretary of the Wisconsin Department of Natural Resources at (608)266-2121.

Sincerely,

COPY

TOMMY G. THOMPSON
Governor

TGT/csd

01d4nrtwvnc2

March 3, 1998

Representative Marc Duff
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

Dear Mr. ^{Marc}Duff:

Thank you for your letter of February 25, 1998. I appreciate your introduction of the Nuclear Waste Policy Act of 1997 Resolution. I appreciate your willingness to introduce an amendment to request that the revisions in Section 508 of S. 104 be included in any report issued by a conference committee convened by the House and the Senate. This inaction by the Department of Energy is inexcusable and is something that must be resolved.

I am also enclosing two letters that have to do with the EPA SIP Call Rule to address ozone transport. The first letter is a letter we wrote to Secretary Meyer. The second letter is a copy of a letter written to Carol Browner, the Administrator of the EPA, asking for a delay in the responses required to EPA. It was sent by the Governor of Wisconsin. I thought that you would be interested in these pieces of correspondence.

Sincerely,

DAIRYLAND POWER COOPERATIVE



Thomas A. Steele
Director, External Relations

TAS:sg

Enclosures

DATE: March 16, 1998

TO: Assembly Environmental Committee

FROM: Lance Green, Stratospheric Ozone Specialist *LG*
Air Management Bureau, Department of Natural Resources

SUBJECT: Testimony in Support of LRB4869-2

- * Under Section 285.59, Wisconsin Statutes, and Chapter NR 488, Wisconsin Administrative Code, vehicle salvagers cannot release and must properly recover ozone-depleting refrigerants from motor-vehicle air-conditioners (MVACs). Federal regulations also prohibit release and require their recovery.
- * Under current Wisconsin regulations, used refrigerants from MVACs must be sent to a "reclaimer" to be purified to their original condition. Automotive recyclers have had problems selling used refrigerants in this market, and often have received a very low value. This situation discourages refrigerant recovery and resale.
- * These used refrigerants can be recycled (sufficiently purified) and reused by MVAC service technicians. The ability to sell these used refrigerants to nearby automotive service facilities will greatly ease their disposition, increase their resale value, and encourage their proper recovery.
- * Federal regulations have recently been revised to clearly allow the sale of MVAC refrigerants to reclaimers or MVAC service technicians.
- * Section 4 of LRB4869-2 will make Wisconsin law consistent with federal law regarding sales of used MVAC refrigerants.
- * Section 4 of LRB4869-2 includes language which will direct generators of used MVAC refrigerant to perform the necessary recordkeeping, sales restrictions and labelling to assure that these refrigerants are identified and handled properly.
- * The Section 4 requirements will also enable the Department of Agriculture, Trade & Consumer Protection or the Department of Natural Resources to conduct inspections to review compliance with refrigerant recovery requirements.
- * In summary, these amendments will provide increased value and ease of disposition for vehicle salvagers recovering MVAC refrigerants, and thus help keep these damaging substances out of the environment.





STATE REPRESENTATIVE
CHUCK SCHAFER
68TH ASSEMBLY DISTRICT

Assembly Bill 907 Testimony to the Assembly Environment Committee

March 17, 1998

Thank you Chairman Duff and members of the Assembly Environment Committee for allowing me to testify in favor of Assembly Bill 907, relating to ozone-depleting refrigerant and mobile air conditioners.

AB 907 simply brings Wisconsin statutes into conformity with the U.S. Environmental Protection Agency's (EPA) recently adopted federal rule changes under Section 609 of the Clean Air Act Amendments which took effect on January 29, 1998.

These new guidelines will allow motor vehicle disposal facilities in Wisconsin to recover refrigerants and then sell the recovered refrigerants to a motor vehicle air conditioning service (MVAC) facility. The facility will in turn recycle the product and charge or recharge the refrigerant into a motor vehicle air conditioner.

Wisconsin statutes are comparatively more restrictive than the new EPA rule, therefore this bill is necessary to bring Wisconsin statutes into conformity. The EPA rule changes this and corresponding legislation will assist in minimizing the release of ozone depleting refrigerants (CFC's) into the atmosphere by creating an incentive for disposal facilities to recover and recycle refrigerants.

In short, the EPA rule and this corresponding legislation is good for the environment and small businesses in the automotive salvage and repair industry. Another benefit of this legislation will be to increase competition in the market place for R-12(Freon), which is no longer manufactured in the United States, and ultimately decrease prices.

The provisions in U.S. EPA section 609 require that:

- ⇒ The disposal facility recovering the refrigerant must use U.S. EPA approved equipment.
- ⇒ Only a certified technician, employee, owner or operator of the disposal facility may perform the recovery.
- ⇒ The disposal facility may only sell the recovered refrigerant to a MVAC facility (i.e. vehicle service and repair business).
- ⇒ The MVAC facility recycles the recovered refrigerant using EPA approved equipment.
- ⇒ The MVAC facility charges or recharges the recycled refrigerant into the motor vehicle air conditioner.

The companion bill to AB 907 received a public hearing in the Senate Agriculture and Environment Committee last Wednesday, March 11th. The following organizations supported this legislation:

Department of Agriculture, Trade and Consumer Protection (DATCP)

Department of Natural Resources (DNR)

Concerned Auto Recyclers of Wisconsin (CARs)

Wisconsin Automobile and Truck Dealers Association, Inc.

Sierra Club - John Muir Chapter

Wisconsin Environmental Decade, Inc.

[REDACTED]
**BROYDRICK
&
ASSOCIATES**
[REDACTED]

Public Affairs

Memorandum

To: Representative Marc Duff, Chairperson
Members of the Committee on Environment
From: Forbes McIntosh
Concerned Auto Recyclers of Wisconsin
Date: Tuesday, March 17, 1998
Re: Support of Assembly Bill 907

The Concerned Auto Recyclers (CARs) of Wisconsin support Assembly Bill 907, relating to the recycling of refrigerants from motor vehicle air conditioners.

Assembly Bill 907 was created in response to a new Environmental Protection Agency (EPA) rule. This bill is intended to bring Wisconsin Statutes in conformity with the new federal rule. Recycling is good for the environment and the re-use of a product is considered the most effective form of recycling. This legislation will assist small businesses in Wisconsin and will create competition in this industry.

Assembly Bill 907 was requested by the Department of Agriculture, Trade and Consumer Protection (DATCP) and is being supported by the Department of Natural Resources (DNR).

Simply stated, the new EPA rule and this corresponding Assembly Bill will allow motor vehicle disposal facilities in Wisconsin to recover refrigerants and sell the recovered refrigerants to a motor vehicle air conditioning service facility.

RECOVERY

- The refrigerant is recovered using approved refrigerant recycling equipment dedicated for use with motor vehicle air conditioners.
- The refrigerant is recovered either by a technician certified under EPA section 609, or by an employee, owner, or operator of (or contractor to) the disposal facility.

RECYCLED

- The recovered refrigerant is recycled by the facility that charges or recharges the refrigerant into a motor vehicle air conditioner.
- The recovered refrigerant is recycled using approved refrigerant recycling equipment in accordance with any applicable recommended service procedures.
- * *US EPA Recovering Refrigerant at Salvage Yards and Other Motor Vehicle Disposal Facilities: Summary of December 30, 1997 Final Rule Provisions*

Recently the Environmental Protection Agency modified guidelines pertaining to recycling and refrigerant recovery from a motor vehicle located at a salvage yard, scrap recycling facility, landfill or other motor vehicle disposal facility. The new rule, effective January, 29, 1998, contains provisions designed to "clarify that automotive service technicians and motor vehicle disposal facility operators may, under certain conditions, recycle and resell refrigerant after it has been recovered from a motor vehicle destined for disposal; at the same time, the provisions in the new rule reiterate how section 609 regulations already in effect restrict these activities so that refrigerant cross-contamination and the release of ozone-depleting refrigerants into the atmosphere are minimized". (*US EPA Recovering Refrigerant at Salvage Yards and Other Motor Vehicle Disposal Facilities: Summary of December 30, 1997 Final Rule Provisions*)

Please note that this rule applies only to mobile air conditioners and not refrigerants from appliances such as refrigerators or home air conditioners.

Although the new EPA rule went into effect on January 29, 1998, Wisconsin motor vehicle disposal facilities cannot recover and sell the recovered refrigerants until this bill is passed. Please support Assembly Bill 907.

The companion bill to Assembly Bill 907, Senate Bill 496, received a public hearing in the Senate Agriculture and Environment Committee last Wednesday, March 11th. The following organizations registered in support of this legislation:

Department of Agriculture, Trade and Consumer Protection (DATCP)
Department of Natural Resources (DNR)
Concerned Auto Recyclers of Wisconsin (CARs)
Wisconsin Automobile and Truck Dealers Association, Inc.
Sierra Club - John Muir Chapter
Wisconsin Environmental Decade, Inc.



United States
Environmental Protection Agency
6205J

Office of Air and Radiation
Stratospheric Protection Division

December 1997

**RECOVERING REFRIGERANT AT SALVAGE YARDS AND
OTHER MOTOR VEHICLE DISPOSAL FACILITIES:
SUMMARY OF DECEMBER 30, 1997 FINAL RULE PROVISIONS**

OZONE PROTECTION HOTLINE TOLL-FREE (800) 296-1996

EPA'S OZONE DEPLETION WORLD WIDE WEB SITE: <http://www.epa.gov/ozone/title6/609/>

Until now, EPA regulations have not specifically addressed how refrigerant recovered from a motor vehicle located at a salvage yard, scrap recycling facility, landfill or other motor vehicle disposal facility may be reused after it is recovered. Many service technicians and motor vehicle disposal facility operators have incorrectly believed that EPA requires that refrigerant removed from a motor vehicle found for disposal *must* be sent to a reclaimer rather than recycled prior to reuse.

A new EPA rule, effective as of January 29, 1998, contains provisions designed to clarify that automotive service technicians and motor vehicle disposal facility operators may, under certain conditions, recycle and resell refrigerant after it has been recovered from a motor vehicle destined for disposal; at the same time, the provisions in the new rule reiterate how section 609 regulations already in effect restrict these activities so that refrigerant cross-contamination and the release of ozone-depleting refrigerants into the atmosphere are minimized.

Note that while the new regulation applies to both CFC-12 and all substitutes for CFC-12, the rule does *not* apply to refrigerant that is extracted from a refrigerator, home air conditioner, or any other appliance, other than a motor vehicle air conditioner (MVAC) or MVAC-like appliance (that is, a piece of farm equipment or heavy duty equipment such as construction, mining or quarry equipment). Refrigerant from these other sources must be sent to a reclaiming facility.

You should also note that certain states and localities may have more stringent requirements for the recovery and disposition of used refrigerant from motor vehicles.

The provisions in the new regulation explicitly allow section 609 certified technicians to recover refrigerant (either CFC-12 or a substitute) from motor vehicles located at disposal facilities, and to take the refrigerant off-site for recycling and re-use at their own service facility. It is also permissible for a motor vehicle disposal facility owner or operator who has purchased recovery equipment to transport the equipment to other motor vehicle disposal facilities in order to perform refrigerant recovery on behalf of those facilities' owners and operators. In addition, owners or

operators of motor vehicle disposal facilities are permitted to recover refrigerants from vehicles to be salvaged and to sell that recovered refrigerant to technicians certified under section 609. By promoting markets for used refrigerant recovered from these vehicles, the Agency hopes to provide incentives for the recovery and reuse of refrigerants.

Keep in mind that these activities are only permitted as long as certain conditions are met. For several years, EPA has placed limits on how refrigerant at disposal facilities may be recovered. For example, equipment used to evacuate refrigerant must be capable of reducing the system pressure to 4 inches of mercury vacuum. These restrictions are shown in the

middle column on the chart on the next page. They will continue, no matter whether refrigerant recovered from a facility is sent to a reclaimer or is returned directly to the MVAC service sector for reuse without prior reclamation.

The provisions in this new rule apply only if the owner or operator of the motor vehicle disposal facility wishes to return refrigerant recovered from an MVAC back to the MVAC service sector for reuse, instead of sending the refrigerant to a reclaimer.

Recycling vs. Reclamation

***Recycling* involves the use of portable equipment to remove the impurities oil, air and moisture from refrigerant. Recycled refrigerant is not as pure as reclaimed refrigerant, since certain maximum levels of these impurities will remain after the recycling process is complete. Recycling typically occurs in automotive service shops.**

***Reclamation* is the removal of all impurities beyond that provided by on-site recycling equipment. Reclaimed refrigerant is essentially identical to new, unused refrigerant. Reclamation cannot be performed in automotive service facilities. If refrigerant is to be reclaimed, a shop will generally send refrigerant either back to the refrigerant manufacturer or directly to a reclamation facility.**

Specifically, the new rule provides that any refrigerant that is not sent off for reclamation may subsequently be used to charge or recharge an MVAC or MVAC-like appliance only if, prior to such charging or recharging, the refrigerant is —

- recovered —
 - using approved refrigerant recycling equipment dedicated for use with MVACs and MVAC-like appliances,
 - either by a technician certified under section 609, or by an employee, owner, or operator of (or contractor to) the disposal facility,
- and is subsequently recycled —
 - by the facility that charges or recharges the refrigerant into an MVAC or MVAC-like appliance,
 - using approved refrigerant recycling equipment in accordance with any applicable recommended service procedures.

In addition, any ozone-depleting refrigerant extracted from an MVAC or an MVAC-like appliance bound for disposal and located at a motor vehicle disposal facility may either be sent off to be reclaimed or be sold by a motor vehicle disposal facility to a section 609 certified technician, who must then recycle the refrigerant and use it at his facility. Any section 609 certified technician who obtains such a refrigerant may subsequently re-use it only in an MVAC or MVAC-like appliance. The chart below should further explain what options motor vehicle disposal facility operators have under this new rule.

REGULATIONS FOR REFRIGERANT RECOVERED FROM VEHICLES AT MOTOR VEHICLE DISPOSAL FACILITIES

Italics Indicate that the requirement is part of the new rule.

Refrigerant recovered from a motor vehicle bound for disposal and located at a motor vehicle disposal facility will be sent off-site to a reclaiming facility, then will be sent to an MVAC service facility for charging or recharging into an MVAC or MVAC-like appliance without prior reclamation, then ...
How must refrigerant be recovered?	Refrigerant must be recovered using equipment that reduces the system pressure to 102 mm (4 inches) of mercury vacuum (Sections 82.156(g) and 82.158(l))	Sections 82.156(g) and 82.158(l) (at left) apply, but there is a further restriction: <i>Prior to such charging or recharging, the refrigerant must be recovered using approved refrigerant recycling equipment dedicated for use with MVACs and MVAC-like appliances (Section 82.34(d))</i>
Who can recover the refrigerant?	No restriction in the regulation: anyone can recover, do not need to be a certified technician	<i>Prior to such charging or recharging, the refrigerant must be recovered either by a section 609 certified technician, or by an employee, owner, or operator of, or contractor to, the disposal facility (Section 82.34(d))</i>
Who can purchase the recovered refrigerant?	Facilities that meet EPA standards for reclaiming refrigerants or those that buy used refrigerant to resell to the reclaiming operations can purchase the recovered refrigerant (Section 82.154(m))	<i>A Section 609 certified technician, who must recycle the used refrigerant before recharging into an MVAC (Sections 82.34(d) and 82.154(m))</i>
Under what conditions can the refrigerant be used?	It can be re-used after reclamation (Sections 82.154(g) and (h))	<i>Prior to such charging or recharging, the refrigerant must be recycled, using approved refrigerant recycling equipment. In addition, section 609 technicians who obtain refrigerant recovered from an MVAC or MVAC-like appliance at motor vehicle disposal facilities must subsequently re-use the refrigerant in an MVAC or MVAC-like appliance (Section 82.34(d))</i>
What recordkeeping and reporting requirements apply?	<p>Anyone who recovers refrigerant from MVACs or MVAC-like appliances for purposes of disposal must certify to EPA that they have acquired equipment that meets section 608 requirements (in other words, they must fill out the section 608 certification form) (Section 82.154(f))</p> <p>Anyone who sells or distributes any ozone-depleting refrigerant must retain invoices that indicate the name of the purchaser, the date of sale, and the quantity of refrigerant purchased (Section 82.166(a))</p> <p>Anyone who takes the final step in disposing of MVACs or MVAC-like appliances, but who does not recover the remaining refrigerant themselves, must maintain copies of signed statements verifying that the refrigerant has been evacuated previously (Sections 82.156(f)(2) and 82.166(i))</p>	<p>Anyone who recovers refrigerant from MVACs or MVAC-like appliances for purposes of disposal must certify to EPA that they have acquired equipment that meets section 608 requirements (in other words, they must fill out the section 608 certification form) (Section 82.154(f))</p> <p>Anyone who sells or distributes any ozone-depleting refrigerant must retain invoices that indicate the name of the purchaser, the date of sale, and the quantity of refrigerant purchased (Section 82.166(a))</p> <p>Anyone who takes the final step in disposing of MVACs or MVAC-like appliances, but who does not recover the remaining refrigerant themselves, must maintain copies of signed statements verifying that the refrigerant has been evacuated previously (Sections 82.156(f)(2) and 82.166(i))</p>



STATE REPRESENTATIVE
CHUCK SCHAFER
68TH ASSEMBLY DISTRICT

Assembly Bill 907 Testimony to the Assembly Environment Committee

March 17, 1998

Thank you Chairman Duff and members of the Assembly Environment Committee for allowing me to testify in favor of Assembly Bill 907, relating to ozone-depleting refrigerant and mobile air conditioners.

AB 907 simply brings Wisconsin statutes into conformity with the U.S. Environmental Protection Agency's (EPA) recently adopted federal rule changes under Section 609 of the Clean Air Act Amendments which took effect on January 29, 1998.

These new guidelines will allow motor vehicle disposal facilities in Wisconsin to recover refrigerants and then sell the recovered refrigerants to a motor vehicle air conditioning service (MVAC) facility. The facility will in turn recycle the product and charge or recharge the refrigerant into a motor vehicle air conditioner.

Wisconsin statutes are comparatively more restrictive than the new EPA rule, therefore this bill is necessary to bring Wisconsin statutes into conformity. The EPA rule changes this and corresponding legislation will assist in minimizing the release of ozone depleting refrigerants (CFC's) into the atmosphere by creating an incentive for disposal facilities to recover and recycle refrigerants.

In short, the EPA rule and this corresponding legislation is good for the environment and small businesses in the automotive salvage and repair industry. Another benefit of this legislation will be to increase competition in the market place for R-12(Freon), which is no longer manufactured in the United States, and ultimately decrease prices.

The provisions in U.S. EPA section 609 require that:

- ⇒ The disposal facility recovering the refrigerant must use U.S. EPA approved equipment.
- ⇒ Only a certified technician, employee, owner or operator of the disposal facility may perform the recovery.
- ⇒ The disposal facility may only sell the recovered refrigerant to a MVAC facility (i.e. vehicle service and repair business).
- ⇒ The MVAC facility recycles the recovered refrigerant using EPA approved equipment.
- ⇒ The MVAC facility charges or recharges the recycled refrigerant into the motor vehicle air conditioner.

The companion bill to AB 907 received a public hearing in the Senate Agriculture and Environment Committee last Wednesday, March 11th. The following organizations supported this legislation:

Department of Agriculture, Trade and Consumer Protection (DATCP)

Department of Natural Resources (DNR)

Concerned Auto Recyclers of Wisconsin (CARs)

Wisconsin Automobile and Truck Dealers Association, Inc.

Sierra Club - John Muir Chapter

Wisconsin Environmental Decade, Inc.



State of Wisconsin
Tommy G. Thompson, Governor

AB 907

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary



DATE: March 17, 1998

TO: Chairman Duff and Committee Members
Assembly Environment Committee

FROM: Tom Stoebig, Environment & Product Safety Section
Division of Trade and Consumer Protection

SUBJECT: LRB 4917

The Department of Agriculture, Trade and Consumer Protection (DATCP) appears today in support of LRB 4917.

DATCP is responsible for administering and enforcing the provisions of s. 100.45, Stats. Enacted in 1990, this law regulates the repair and servicing of motor vehicle air conditioning (MVAC) systems, and helps to ensure the safe use and proper recovery/recycling of ozone-depleting refrigerants and their substitutes.

Each year, DATCP's Environment and Product Safety staff conduct approximately 1,400 inspections of businesses engaged in the repair and servicing of MVAC systems and refrigerant sales. An estimated 3,000 businesses are registered with the Department under s. 100.45, Stats. These businesses are required to possess approved refrigerant recovery/recycling equipment, employ certified technicians, and comply with other program regulations.

1. Proposed Legislation Corrects Conflict between State and Federal Law

The U.S. Environmental Protection Agency adopted federal rule changes under Section 609 of the Clean Air Act Amendments which took effect on January 29, 1998. Most of these federal rule changes parallel current DATCP regulations. However, one of the recent changes clearly conflicts with s. 100.45, Stats., related to the sale and use of recovered refrigerant.

Briefly, new federal rules now authorize the sale of used refrigerant from a vehicle salvager to a federally certified motor vehicle air conditioning (MVAC) technician. This conflicts with state law which requires refrigerant removed from

MVAC systems to be sent to a federally approved reclamation facility, or recycled and reused on-site or at another establishment under common ownership.

.2. Rationale for Statutory Revisions

Commercial production of chlorofluorocarbons, or CFCs, for most commercial uses in the U.S. ceased in 1996. This domestic production ban has been a key factor in the dramatic increase in the wholesale and retail price of R-12 (often called Freon by its DuPont trade name). Although less expensive refrigerant substitutes are now being used (the refrigerant of choice within the automotive industry is R-134a), there remains a need within the aftermarket automotive industry for R-12.

Previously, federal regulations restricted the off-site recycling and reuse of refrigerant recovered from motor vehicles only to business operations and equipment under common ownership. In all other situations, EPA required any refrigerant removed from motor vehicles bound for salvage and disposal to be sent to an approved reclamation facility, rather than sold as used refrigerant to another business and recycled prior to reuse in another motor vehicle..

Unfortunately, few reclamation facilities accept refrigerant from automotive end uses, and instead seek larger volume singular sources found within the commercial HVAC and refrigeration industry. Those that do accept used refrigerant from multiple motor vehicles either charge a fee, or offer payment well below fair market values.

The current lack of legal markets for used refrigerant from vehicle salvage operations has discouraged salvagers and others to recover this refrigerant, and quite possibly, has encouraged the venting of refrigerant into the atmosphere from vehicles bound for disposal.

3. LRB 4869 Will Create Consistency Between State and Federal Law and Create Beneficial Relationships Between Salvagers and Repair Facilities

In regards to recovered refrigerant, the proposed legislation allows for the sale or transfer of used refrigerant to a DATCP- registered repair and servicing business. The refrigerant would then be recycled and reused in other motor vehicles. Proper labeling requirements and assurances against misrepresentations of the quality and type of refrigerant would still remain.

Consistent with this practice, the bill deletes statutory wording that limits the off-site recycling of refrigerant from motor vehicles only to business locations under common ownership.

Lastly, the bill deletes reference to annual DATCP registration requirements for businesses engaged in the purchase and sale of used, recovered refrigerant. Salvagers are already licensed through DNR. And the original concept of a middle layer of refrigerant handlers within the automotive industry has never surfaced. Thus, no "refrigerant broker" registrations have ever been issued by the Department.

4. Both Economic and Environmental Gains Can Be Realized With the Legislation.

Allowing motor vehicle salvagers to resell used refrigerant to MVAC repair and servicing businesses will create new economic markets for motor vehicle salvagers, as well as a new and less costly source of usable refrigerant for repair and service shops. It is good for the environment and the pocketbook of small business.

Both DATCP and DNR have spent considerable time discussing our program options in preparation for the recent federal regulatory changes. We have met with salvagers, auto repair businesses and other industry representatives. It has the support of both trade and environmental groups. We urge your support.



State of Wisconsin
Tommy G. Thompson, Governor

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



ATCP 136, WIS. ADM. CODE **MOBILE AIR CONDITIONING**

Refrigerants used in air conditioning have been shown to contribute to the depletion of the earth's protective stratospheric ozone layer or to global warming, and are strictly regulated under state and federal law.

The Wisconsin Department of Agriculture, Trade and Consumer Protection administers and enforces regulations governing the repair and service of motor vehicle air conditioning systems. Highlights of these regulations include:

- The venting of refrigerants is prohibited.
- Technicians who perform A/C repairs and servicing must be trained, tested and certified through a DATCP-approved training program.
- Recovery and recycling equipment must meet state requirements set forth in Chapter ATCP 136.12, Wis. Adm. Code. Generally, this equipment must meet SAE standards.
- Refrigerant removed from a motor vehicle will be captured and recycled to meet state and federal purity standards prior to being reused in any motor vehicle.

- **Motor vehicle air conditioning systems will be inspected for leaks prior to adding refrigerant. Topping off is prohibited.**
- **Refrigerant will not be added to any system that has an identified leak until repairs have been made.**
- **Refrigerant added to perform diagnosis of a malfunctioning system must be removed if repairs are not authorized by the customer and completed.**
- **The sale of refrigerant is restricted to federally certified technicians who are employees or owners of state registered businesses.**
- **Auto repair and refrigerant sales and purchase records must be kept for a minimum of two years.**
- **The sale or distribution of small containers of refrigerant is prohibited under state law.**
- **All refrigerant containers - used, recycled, and new or reclaimed - must be properly labeled and color coded.**