

Report From Agency

REPORT TO LEGISLATURE

NR 660 to 679, Wis. Adm. Code

Board Order No. WA-14-21
Clearinghouse Rule No. CR 24-037

Basis and Purpose of the Proposed Rule

This rule incorporates technical corrections and clarifications into Wisconsin code. Revisions correct missing words and text in the code, typos and spelling misprints, and citation errors. Clarifications of existing rules will align Wisconsin language with federal code.

Summary of Public Comments

Comment 1. DNR should have considered advancing one rule instead of three separate rulemakings. Wisconsin Manufacturing Council (WMC) asserted that the three rule packages could have been combined into one rule package to allow businesses and the public to better provide meaningful comment and review on the rulemakings.

Department response:

The department has drafted each scope statement for the three rulemaking efforts to focus on a specific, individualized topic. The department provided the board order language for the public to review, which outlined the specific rule language that was being modified. The department chose this approach, in part, for the following reasons:

- Each scope statement, and its respective rulemaking effort, relates to a single, clear topic, making it easier to communicate and discuss proposed rule changes with affected stakeholders (in consideration for the complexity that may occur with hazardous waste program topics).
- Each scope statement, and its respective rulemaking effort, relates to a single topic, allowing the department to identify stakeholders that may benefit from additional outreach during the public input periods and allowing for stakeholders to respond to these individual scope statements and proposed rules based on their areas of interest.

Comment 2. DNR should ensure each rulemaking is no more restrictive than federal code. DNR cannot impose new standards without statutory authority.

Department response: The department acknowledges this comment and is following the agency's prescribed rulemaking process, pursuant to relevant statutory authority.

Comment 3. WMC believes businesses should not have to follow two sets of hazardous waste regulations, between federal and state codes. WMC feels any "new" Wisconsin requirements would put businesses at a disadvantage and that DNR should consider directly incorporating the federal code and allow businesses to follow one set of regulations instead of two.

Department response: The department acknowledges this comment. The rule, as proposed, is intended to align the state with the federal regulations.

Comment 4. WMC is generally not opposed to technical updates to NR 660-679, provided they are no more restrictive than EPA’s administrative code under RCRA.

Department response: The department acknowledges and thanks WMC for the comment.

Modifications Made

The following is a summary of changes that the department made in response to comments submitted by the U.S. Environmental Protection Agency.

- Added “subpart D of 40 CFR 261” to s. NR 660.01 (2) (f) to align with language in 40 CFR 260.1 (b) (6).
- Kept existing language in s. NR 660.07 (3).
- Amended proposed language in s. NR 660.10 (73m) to read “Long-term care has the meaning given in s. 289.01 (21), Stats.”
- Added the word “virgin” in front of “fuel storage tank bottoms”.
- Added “Oils that do not meet EPA's definition of used oil can still pose a threat to the environment when disposed of and could be subject to the RCRA regulations for hazardous waste management” to the end of the Note after s. NR 679.01 (12).

Appearances at the Public Hearing

Forty-four people registered for the public hearing held on May 8, 2024, and thirty-one attended. No verbal statements were made for or against the rule at the public hearing. Two attendees registered in support for the rule and no attendees expressed opposition to the rule when registering for the public hearing. All remaining attendees registered as attending for informational purposes only.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the analysis or fiscal estimate as a result of the public hearing.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on:

- Form, style and placement in administrative code
- Clarity, grammar, punctuation and use of plain language.

Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

The proposed rule will have little to no impact on small businesses. The rules will be correcting spelling and grammatical errors and clarifying existing regulations. No new requirements are being created as a result of these corrections and clarifications.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.

