

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WA-12-21

Relating to: Revisions to chs. NR 600 to 679 to modify and expand universal waste management regulations.

Rule Type: Permanent

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

The rule will be proposed as a permanent rule.

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

The purpose of this scope statement is to request authority to amend chs. NR 660 to 679, Wis. Adm. Code. This authorization would enable the Wisconsin Department of Natural Resources (department) to incorporate federal universal waste requirements, evaluate existing and emerging waste streams for possible management as Wisconsin-specific universal wastes, and evaluate and potentially modify Wisconsin universal waste management regulations.

Anticipated proposed rules and revisions, based on federal hazardous waste regulations promulgated since Wisconsin last received authorization from the U.S. Environmental Protection Agency (EPA), will include updates and corrections to current rules related to the generation, transportation, recycling, treatment, storage and disposal of universal waste. To the extent possible, the department intends to adopt content and format equivalent to the promulgated federal regulations.

Managing certain high-volume, low-risk hazardous wastes as universal wastes simplifies requirements for generators and ensures that wastes such as aerosol cans are sent to the appropriate destination facilities, where they will be managed under applicable hazardous waste requirements to ensure protection of human health and the environment. Management as universal wastes, when consistent with current federal requirements, is also expected to facilitate environmentally sound recycling practices.

The potential adoption of Wisconsin-specific universal wastes, such as used antifreeze destined for recycling, solar panels or other waste streams, creates allowances that will decrease risks to human health, reduce regulatory burden to generators, encourage the recycling of specific universal wastes and divert these waste streams from landfills.

The federal regulations for evaluation and possible adoption by the department relate solely to those promulgated since 2019. Additional rule changes may be pursued which are reasonably related to those discussed within this scope statement.

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

The proposed rule revisions will:

- Reinforce the department's existing policy of protecting public health and welfare from mismanagement of hazardous waste and universal waste constituents.
- Update current state rules, driven by federal regulatory requirements relating to aerosol cans as a universal waste.
- Update current state rules based on existing and proposed management standards to allow for recycling collection and management of universal wastes.
- Ensure clarity and consistency in waste requirements for universal waste receiving and recycling facilities.

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

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

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

Additional statutes which may relate to or be affected by the proposed rule revisions include ss. 227.11(2)(a), 227.14(1m), 289.21, 289.24, 289.30, 289.31, 289.33, 289.41, 289.43, 289.61, 289.63, 291.25, 299.05, and 299.53, Wis. Stats.

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

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

The department estimates that approximately 2000 hours of staff time will be required to complete the proposed rule.

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

The proposed rules will likely have some impact on all regulated classes of hazardous waste generators including retail and commercial businesses, very small quantity generators, small businesses, government organizations, as well as large industrial facilities and will specifically impact manufacturing processes that use aerosols containing solvents and hazardous waste recyclers.

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

The proposed rule would allow the department to capture federal revisions pertaining to universal waste regulations within state administrative rules, improve consistency for stakeholders operating at a national level, and will improve clarity and consistency in waste requirements for universal waste receiving and recycling facilities.

The adoption of the federal universal waste final rule would modify existing state hazardous waste rules to include aerosol cans. The designation of additional Wisconsin-specific universal wastes in state rules would modify management standards to facilitate increased recycling opportunities. These modifications to recycling and management options are intended to provide environmental, public health, and economic, including potential energy conservation.

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

The department anticipates minimal economic impact to small businesses as a result of the proposed rule. Federal rules require an economic impact analysis for promulgation and the universal waste rules were deemed by federal analysis to cause “minimal impact” with little or no change in market prices or production. The addition of aerosol cans as a universal waste is not expected to adversely affect a significant number of small entities, since the rule is expected to result in net cost savings for all entities affected by the rule. This action will either relieve a regulatory burden or impose no net regulatory burden for all directly regulated small entities.

These federal rules were intended to provide clarity, and will result in a reduction in regulation for facilities selecting to manage hazardous waste under the universal waste management options. The federal universal waste rule package, and any additional Wisconsin-specific universal waste management provisions, allow for more flexible methods of accumulation, storage and transport of universal wastes. These changes will promote the collection and recycling of these universal wastes and encourage the development of municipal and commercial programs to reduce the quantity of these wastes going to municipal solid waste landfills or combustors.

The adoption of these regulations into Wisconsin Administrative Code will likely have some impact on all regulated classes of hazardous waste generators which include manufacturers, commercial and retail establishments, and healthcare facilities that generate aerosols.

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

The department anticipates holding a virtual public hearing in or around May 2024 to provide an opportunity for business/industry, municipalities, environmental groups and the public throughout the state to participate.

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