

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date January 23, 2024</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chs. NR 600-679 – Environmental Protection – Hazardous Waste Management</p>	
<p>4. Subject Revisions to chs. NR 600 to 679 to modify and expand universal waste management regulations. WA-12-21</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected NA</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$ 0. There will be little to no economic effect. The proposed flexibilities to hazardous waste management regulations are optional and may provide cost savings for impacted entities. Wisconsin is primarily revising this rule to align with federal regulations with additional clarifications to existing regulatory requirements. Based on the federal evaluation of impacted large quantity hazardous waste generators in each state, it is anticipated that 69% of retail trade industry entities and 17% of manufacturing entities in Wisconsin will benefit from this regulatory update. (NAICS codes 44-45 and 31-33)</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule Federal regulations currently allow aerosol cans to be managed as a universal hazardous waste, which allows for alternative and less costly management and disposal options. Current Wisconsin regulations do not incorporate aerosol cans as universal hazardous waste. It is beneficial to provide this flexibility and potential cost savings to impacted entities, and to provide consistent management options for wastes crossing state lines (see item 18 below).</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The revision of chs. NR 600 to 679, Wis. Adm. Code relating to universal hazardous waste management regulations will affect entities that generate or manage waste aerosol cans during their regular course of business, and universal hazardous waste handlers and destination facilities as defined below:</p> <ul style="list-style-type: none">• Hazardous waste generators as defined in ss. NR 660.10(50) and 673.09(4), Wis. Adm. Code, which include retail and commercial businesses, very small quantity generators, and industrial facilities that use aerosol cans. The two top economic sectors with the largest percentage of potentially affected entities are the retail trade industry representing 69% of the affected universe, and manufacturing, representing 17% of the affected universe.• Household hazardous wastes and very small quantity generator collection facilities as defined in ss. NR 666.900 and 666.901, Wis. Adm. Code.	

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- Universal waste handlers as defined in ss. NR 660.10(134) and 673.09(12), Wis. Adm. Code, which include commercial and municipal entities that transport, handle or manage universal waste.
- Universal waste destination facilities as defined in ss. NR 660.10(22) and 673.09(2), Wis. Adm. Code, which include businesses that treat, dispose of or recycle universal waste.

These entities were broadly solicited for comment during the preliminary public hearing held on October 6, 2022. They will be contacted for comments during the economic impact comment solicitation period.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

Local government units will be contacted for comments during the solicitation period. The department will document comments from any local government units that provide input during the rule's economic impact comment period.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Impacts on Specific Businesses and Business Sector (Private Businesses) and Local Governments:

The rule is anticipated to have little to no economic and fiscal impact.

- The proposed flexibilities to hazardous waste management regulations are optional and may provide cost savings for impacted entities.
- Federal rules require an economic impact analysis. The Regulatory Impact Analysis in the federal register (FR 84 FR 67202), which pertains to the addition of aerosol cans as a universal waste, indicated that the rules were not expected to "result in an adverse impact to a significant number of small entities since the rule is expected to result in net cost savings for all entities affected by the rule." The federal rule was found to "either relieve regulatory burden or have no net regulatory burden for all directly regulated small entities" with a cost savings in avoided labor costs and capital or operation and maintenance costs.

Impacts on Public Utility Rate Payers

The department does not anticipate that the promulgation of this rule will affect utility rate payers.

Fiscal Impact and Impact on State Economy

The proposed rule clarifies destination facility language. Destination facilities that store aerosol cans prior to recycling are subject to storage facility requirements, including required licensing and fees. .

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed flexibilities to hazardous waste management regulations are optional and allow for reduced management standards for impacted entities. One benefit of this rule is that entities that generate and manage hazardous waste aerosol cans would be able to manage this waste stream under streamlined and reduced requirements. This would include:

- Waste determinations for universal hazardous waste do not require analytical or formal documentation.
 - Universal hazardous waste can be stored for up to a year, significantly longer than other hazardous waste storage timeframes.
 - Universal hazardous wastes are not required to be manifested during transport and transporters of universal waste do not require a transporter license.
 - Universal hazardous wastes do not count toward a facility's generator status and when recycled would not accrue hazardous waste disposal fees with the department.
 - Universal hazardous waste storage, treatment and disposal costs are typically less than for non-universal
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hazardous wastes.

If the rule is not implemented:

- All generators of waste aerosol cans will continue to make waste determinations on aerosol cans and their contents, manage the waste aerosol cans in accordance with full hazardous waste regulations, count the waste aerosol cans toward their generator status, and likely pay higher costs for the management, transport and disposal of this waste stream.
- Generators that choose to puncture waste aerosol cans would remain subject to full hazardous waste regulations rather than the reduced regulations allowed under universal waste requirements. The universal waste requirements are intended to facilitate recycling of waste aerosol cans and the capture of hazardous emissions and waste.
- Aerosol can treatment, storage and disposal activities would remain subject to full hazardous waste requirements, some of which require costly and time-consuming licensing efforts.

16. Long Range Implications of Implementing the Rule

No significant long range implications of implementing the rule are expected, as this is an optional and alternative management standard, allowing for regulatory flexibility. No additional costs to generators are projected and while it is difficult to quantify long-range impacts, the alternative management standards may:

- Reduce management and disposal costs of hazardous waste aerosol cans.
- Create flexibilities for entities that generate and manage these wastes, in accordance with s. 291.001(6), Stats.
- Improve recycling options to better support facilities in meeting the solid waste landfill ban on steel and aluminum containers in accordance with s. 287.07, Stats.
- Create consistent and flexible management requirements for entities that manage these wastes across state lines.
- Further align the state's hazardous waste regulations with analogous federal regulations and support continued state authorization efforts.

EPA's analysis indicated qualitative benefits to adding aerosol cans to the universal waste program, including improved implementation of and compliance with hazardous waste regulations, and the increased recovery and recycling of aerosol cans. The estimated cost savings for Wisconsin entities is indeterminate, as federal and state regulations do not require hazardous waste aerosol cans to be independently tracked or documented as distinct from other types of hazardous waste.

17. Compare With Approaches Being Used by Federal Government

The federal government currently allows used aerosol cans to be managed as a universal hazardous waste, as promulgated on December 9, 2019, and effective February 7, 2020. Wisconsin will be consistent with these federal rules upon adoption. Additional regulatory language revisions will retain equivalency to federal regulations while clarifying the requirements for destination facilities.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The alternative management option for aerosol cans as a universal hazardous waste is currently effective in Iowa, Illinois and Michigan.

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Summary of neighboring states								
USEPA Universal Waste Regulations: Addition of Aerosol Cans Promulgated December 9, 2019. Checklist 242								
State:	Iowa		Illinois		Michigan		Minnesota	
Status of equivalent rules	Adopted ¹	Authorized ²	Adopted	Authorized	Adopted	Authorized	Adopted	Authorized
	N/A	N/A	Y	N	Y	N	Y	N
	Iowa does not have a state program. USEPA Region 7 administers and enforces RCRA hazardous waste regulations.		Aerosol can regulations are equivalent to federal regulations; established under 35 Ill. Adm. Code 733.106, September 3, 2020.		Aerosol can regulations are both more stringent and broader in scope than the federal rule; established under R. 299.9228, Michigan Code, August 3, 2020.		Aerosol can regulations are identical to federal regulations; established prospectively under Minn. R. 7045.1400, Subp. 1, 2005.	

¹Adopted = promulgated and effective at the state level

²Authorized = rules adopted by the state have been authorized by USEPA

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

This rule will affect small businesses by decreasing management costs (implementation and compliance) and disposal costs related to waste aerosol cans. The items below outline the projected decreases in management and disposal efforts for this waste stream:

- Waste determinations for universal hazardous waste do not require analytical or formal documentation.
- Universal hazardous waste can be stored for up to a year, significantly longer than other hazardous waste storage timeframes.
- Universal hazardous wastes are not required to be manifested during transport and transporters of universal waste do not require a transporter license.
- Universal hazardous wastes do not count toward a facility's generator status and when recycled would not accrue hazardous waste disposal fees with the department.
- Universal hazardous waste storage, treatment and disposal costs are typically less than for non-universal hazardous wastes.

This rule will be equivalent to current federal regulations, which have undergone an economic impact analysis with conclusions as follows:

- The Regulatory Impact Analysis in the federal register (FR 84 FR 67202), which pertains to the addition of aerosol cans as a universal waste, indicated that the rules were not expected to "result in an adverse impact to a significant number of small entities since the rule is expected to result in net cost savings for all entities affected by the rule."
- The federal rule was found to "either relieve regulatory burden or have no net regulatory burden for all directly regulated small entities" with a "cost savings" in avoided labor costs and capital or operation and maintenance costs.
- The Environmental Protection Agency has determined a cost savings for small businesses nationwide and the final action is "estimated to result in an annual cost savings of \$5.3 million to \$47.8 million. The estimated economic impacts are presented in the Regulatory Impact Analysis and in Section VIII of FR 84 67202.

The estimated cost savings for Wisconsin entities is indeterminate, as federal and state regulations do not require hazardous waste aerosol cans to be independently tracked or documented as distinct from other types of hazardous waste.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

- The Regulatory Impact Analysis in the federal register (FR 84 FR 67202), which pertains to the addition of aerosol cans as a universal waste.
 - Hazardous waste generators as defined in ss. NR 660.10(50) and 673.09(4), Wis. Adm. Code, which include retail and commercial businesses, very small quantity generators, and industrial facilities that use aerosol cans. The two top economic sectors with the largest percentage of potentially affected entities are the retail trade industry representing 69% of the affected universe, and manufacturing, representing 17% of the affected universe.
 - The estimated cost savings for Wisconsin entities is indeterminate, as federal and state regulations do not require hazardous waste aerosol cans to be independently tracked or documented as distinct from other types of hazardous waste.
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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements: the proposed alternative management standards allow for simplification of compliance and reporting requirements, including identification, labeling, counting and tracking requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting: the proposed alternative management standards allow for reduced reporting, less stringent schedules for compliance.
- Consolidation or Simplification of Reporting Requirements: the proposed alternative management standards allow for simplification of identification, labeling and reporting requirements.
- Establishment of performance standards in lieu of Design or Operational Standards NA
- Exemption of Small Businesses from some or all requirements: cannot promulgate hazardous waste identification regulations that are less stringent than federal hazardous waste regulations [s. 291.05, Wis. Stats.]
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed rule will provide flexibilities to requirements for the management and disposal of waste aerosol cans that are used in a variety of small businesses, including retailers, auto body and repair shops, gas stations, printers and grocery stores. The proposed revision is intended to provide entities with the option to decrease the level of management, documentation, evaluation, transport, recycling and disposal costs associated with management of this waste stream.

5. Describe the Rule's Enforcement Provisions

Enforcement of the administrative rules will follow the department's stepped enforcement procedures and EPA policy.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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