

CR 81-211

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, 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. SW-51-81 was duly approved and adopted by this Department on March 24, 1982. 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 General Executive Facility #2 in the City of Madison, this 7th day of May, 1982.

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

.....
IN THE MATTER of creating chapter .
NR 183 of the Wisconsin Administrative .
Code, pertaining to engine waste .
oil collection, storage and .
transportation .
.....

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Analysis Prepared By The
Department of Natural Resources

Section 144.48, Stats., requires the Department of Natural Resources to establish, by rule, standards for approved types of facilities to be used for engine waste oil collection and for engine waste oil storage, and authorizes the Department to adopt rules on the transportation of engine waste oil.

Chapter NR 183, Wis. Adm. Code, is proposed to establish minimum standards for the design and operation of engine waste oil collection and storage facilities, to establish requirements for informal plans of operation which may be submitted for municipal engine waste oil storage facilities, and to establish licensing and reporting requirements for transporters of engine waste oil.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.48 and 227.014, Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting s. 144.48, Stats., as follows:

Section 1 - Chapter NR 183 is created to read:

ENGINE WASTE OIL
COLLECTION, STORAGE AND
TRANSPORTATION

NR 183.01 Purpose	NR 183.06 Minimum standards for engine
NR 183.02 Applicability	waste oil collection and
NR 183.03 Severability	storage facilities
NR 183.04 Definitions	NR 183.07 Informal plans of operation
NR 183.05 Required engine waste oil	NR 183.08 Transportation
collection and storage	NR 183.09 Compliance with solid and
facilities	hazardous waste regulations

NR 183.01 PURPOSE. The purpose of these rules is to establish minimum standards for approved types of engine waste oil collection and storage facilities, and to establish licensing and reporting requirements for transporters of engine waste oil. These rules are adopted under ss. 144.48 and 227.014, Stats.

NR 183.02 APPLICABILITY. These rules apply to the collection, storage and transportation of engine waste oil which has been used by consumers. The collection, storage and transportation of waste oil other than engine waste oil used by consumers, and the disposal of all waste oil, including engine waste oil used by consumers, is regulated under either ch. NR 180 or NR 181, Wis. Adm. Code, whichever is applicable, not under these rules.

NR 183.03 SEVERABILITY. Should any portion of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

NR 183.04 DEFINITIONS. (1) "Automotive engine oil" is defined in s. 144.48(1)(a), Stats., to mean "any oil to be used in the engine or crankcase of a motor vehicle."

(2) "Consumer" means a person who for personal or family purposes purchases or uses automotive engine oil or generates, collects, stores or transports engine waste oil in quantities of less than 200 gallons per year.

(3) "Critical habitat area" means any habitat determined by the department to be critical to the continued existence of any endangered species listed in ch. NR 27, Wis. Adm. Code.

(4) "Department" means the department of natural resources.

(5) "Engine waste oil" is defined in s. 144.48(1)(c), Stats., to mean "automotive engine oil after it is used and removed from the engine or crankcase of a motor vehicle but before that oil is recycled."

(6) "Engine waste oil collection facility" means a commercial or municipal establishment or operation that accepts and temporarily accumulates engine waste oil generated by consumers.

(7) "Engine waste oil storage facility" means a commercial or municipal establishment or operation that accepts and stores engine waste oil generated by consumers prior to recycling or disposal.

(8) "Municipality" means any town, village, city or county in the state.

(9) "Operator" means the person who is responsible for the overall operation of an engine waste oil collection or storage facility.

(10) "Owner" means the person who owns an engine waste oil collection or storage facility or part of such a facility.

(11) "Person" is defined in s. 144.01(9m), Stats., to mean "an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency."

(12) "Retail sales establishment" is defined in s. 144.48(1)(i), Stats., to mean "a person who is engaged in the business of selling automotive engine oil to consumers."

(13) "Tank" means a stationary, enclosed device, designed to contain an accumulation of engine waste oil and constructed primarily of nonearthen materials, such as concrete, steel or fiber glass, which provide structural support.

(14) "Wetland" is defined in s. 23.32(1), Stats.

NR 183.05 REQUIRED ENGINE WASTE OIL COLLECTION AND STORAGE FACILITIES.

(1) ENGINE WASTE OIL COLLECTION FACILITIES MAINTAINED BY RETAIL SALES ESTABLISHMENTS. (a) Section 144:48(2)(a), Stats., requires all retail sales establishments in the state to either:

1. Establish and maintain an engine waste oil collection facility and post at least one sign at the location of the sale of automotive engine oil to consumers which contains wording similar to: "Engine waste oil collection facility. Please return your waste oil here."; or

2. Post at least one sign at the location of the sale of automotive engine oil to consumers which contains wording similar to: "Engine waste oil can be recycled. Please return your waste oil to a waste oil storage facility. The nearest waste oil storage facility is located _____ and is open _____," and which describes the location and days and hours of operation of the nearest engine waste oil storage facility.

(b) A retail sales establishment that maintains or proposes to establish an engine waste oil collection or storage facility which complies with the applicable standards in s. NR 183.06 is exempt from the requirements of ss. 144.44, 144.46, 144.63 and 144.64, Stats., and rules promulgated under those sections with respect to that facility.

(2) MUNICIPAL ENGINE WASTE OIL STORAGE FACILITIES. (a) Section 144.48(3)(a)4., Stats., requires a city, village or town located in a county with a population of 50,000 or more, to establish and maintain, or to provide for, adequate engine waste oil storage facilities if such facilities do not otherwise exist. Section 144.48(3)(a)5., Stats., requires a county with a population of less than 50,000 to establish and maintain, or to provide for, adequate engine waste oil storage facilities if such facilities do not otherwise exist. As used in this subsection, "adequate engine waste oil storage facilities" means at least the minimum number of separate engine waste oil storage facilities as set forth in pars. (b) and (c), each with a capacity of at least 250 gallons and each located so as to be accessible to the public. A tank is considered "accessible to the public" if its location is reasonably convenient for use by the residents of the municipality in question and if that location is indicated by means of adequate signs.

(b) Section 144.48(3)(a)2., Stats., specifies that the minimum number of engine waste oil storage facilities for a city, village or town located in a county with a population of 50,000 or more is:

1. Zero, if the population is less than 3,500.
2. One, if the population is at least 3,500 but less than 25,000.
3. Two, if the population is at least 25,000 but less than 100,000.
4. Three, if the population is at least 100,000, plus one additional facility for each additional 100,000 of population.

(c) Section 144.48(3)(a)3., Stats., specifies that the minimum number of engine waste oil storage facilities for a county with a population under 50,000 is one.

(d) A municipality which submits to the department, prior to the construction of a new facility or within 6 months after the effective date of these rules for an existing facility, an informal plan of operation that meets the requirements of s. NR 183.07 and which constructs and maintains, or provides for, an engine waste oil storage facility that complies with the applicable standards in s. NR 183.06 is exempt from the requirements of ss. 144.44, 144.46, 144.63 and 144.64, Stats., and rules promulgated under those sections with respect to that facility.

(e) If adequate engine waste oil storage facilities already exist, a municipality is not required to establish additional facilities. To be considered adequate, the facilities shall be in compliance with applicable requirements of this chapter. The facilities may be publicly or privately owned and operated.

NR 183.06 MINIMUM STANDARDS FOR ENGINE WASTE OIL COLLECTION AND STORAGE FACILITIES. (1) LOCATIONAL CRITERIA. (a) An engine waste oil collection or storage facility may not be located in a wetland or a critical habitat area.

(b) The siting of an engine waste oil collection or storage facility shall be done in accordance with all applicable local, state or federal laws.

(2) DESIGN STANDARDS. (a) General standards. The following standards are applicable to all engine waste oil collection facilities and all engine waste oil storage facilities:

1. Engine waste oil collection and storage facilities shall be designed and maintained so that they are leak-proof.

2. Engine waste oil collection and storage facilities shall be permanently located, stationary or mobile structures properly anchored or otherwise designed and constructed to prevent the spillage of engine waste oil.

3. Tanks used for engine waste oil collection or storage or both shall have a level gauge, or some other adequate means for checking the level of oil in the tank, have adequate venting and an exterior constructed of noncorrosive materials, or be treated so as to make the exterior materials noncorrosive. Such tanks may be of any shape or type consistent with sound engineering design.

4. Engine waste oil collection and storage facilities shall be installed and maintained in accordance with sound engineering practice.

5. The same facility may serve as an engine waste oil collection facility and an engine waste oil storage facility.

6. A sign shall be located at the facility which contains wording similar to the following: "Engine waste oil collection only. Depositing other materials is prohibited." It is suggested that the sign also give information regarding the disposal of gasoline and other flammable liquids.

(b) Above-ground tanks. The following standards are applicable to above-ground tanks only:

1. For purposes of providing adsorption, a layer of clean sand or gravel, which is a minimum of 3 inches thick, shall be placed beneath above-ground tanks.

2. Absorbent material shall be available at the tank site or at some other convenient location for use by the operator in absorbing engine waste oil spills.

3. The installation of fiber glass tanks above-ground is prohibited.

(c) Underground tanks. 1. Because underground tanks are subject to increased corrosion, require specific installation techniques, make leak detection more difficult, and require more maintenance than above-ground tanks, their use for engine waste oil collection or storage is not recommended by the department.

2. If an underground tank is used for engine waste oil collection or storage, the following standards shall be complied with:

a. The use of riveted or caulked underground tanks is prohibited.

b. Excavation for underground tanks shall be made with due care to avoid undermining the foundations of existing structures.

c. Underground tanks shall be set on firm foundations and shall be surrounded with at least 6 inches of clean sand or gravel well-tamped in place.

d. Underground tanks shall be placed in a hole with care, since dropping or rolling the tank into the hole may break a weld, puncture or damage the tank, or scrape off the protective coating of coated tanks.

e. Underground tanks shall be covered with a minimum of 2 feet of soil or with a slab of reinforced concrete not less than 4 inches thick on top of the one foot of soil. When these tanks are, or are likely to be, subjected to traffic, they shall be protected against damage from vehicles passing over them by at least 3 feet of earth cover or 18 inches of well-tamped earth plus either 6 inches of reinforced concrete or 8 inches of asphaltic concrete.

f. Before a newly installed underground tank is covered, the owner or operator shall contact the local Fire Department to allow them the opportunity to inspect the installation of the tank.

(3) OPERATIONAL REQUIREMENTS. The following operational requirements are applicable to all engine waste oil collection facilities and all engine waste oil storage facilities:

(a) The owner or operator of the facility shall ensure that all containment devices, including tanks, pipes and containers used for the collection or storage of engine waste oil, are inspected at least once a week.

(b) The owner or operator shall ensure that the tank level is checked at least once a week, by the use of either a level gauge or tank gauge stick, and shall ensure that the tank is emptied before it becomes full, in order to avoid overfilling and spillage.

(c) Any deterioration of a containment device which inspection reveals shall be remedied on a schedule that ensures that the device will not leak.

(d) If a leak occurs, the owner or operator shall see that:

1. The spill is immediately contained and cleaned up with, for example, sawdust or other absorbent material and that the spill residue is disposed of in accordance with the requirements of ch. NR 180 or NR 181, Wis. Adm. Code, if applicable; and

2. The leaking device is immediately either emptied and taken out of service or repaired to prevent further spills.

(e) The owner or operator of the facility shall comply with all applicable environmental protection statutes and administrative rules, including s. 144.76, Stats., and ch. NR 158, Wis. Adm. Code.

(f) The owner or operator shall comply with all applicable safety regulations.

NR 183.07 INFORMAL PLANS OF OPERATION. (1) Municipalities may prepare and submit to the department informal plans of operation for engine waste oil storage facilities under s. NR 183.05(2)(d).

(2) An informal plan of operation shall contain all of the following information:

(a) The name of the municipality.

(b) The population of the municipality and, where the municipality is a city, village or town, the population of the county in which the municipality is located.

(c) The name of the owner and the name of the operator of the facility or proposed facility.

(d) A general description of the facility or proposed facility, including the type of above-ground or underground tanks which are being used or are proposed to be used, and the capacity of those tanks.

(e) A description of what is done or is proposed to be done with the engine waste oil, including the name and address of any recycling facility or transportation service that is to be utilized.

(f) A map of the municipality indicating the location of the facility or proposed facility.

(3) An informal plan of operation need not be prepared by a registered professional engineer.

NR 183.08 TRANSPORTATION. (1) LICENSING. (a) Exemptions.

1. Retailers transporting engine waste oil from their own establishments, or from other retail establishments as well as their own on a cooperative nonprofit basis, to approved recycling or disposal facilities shall be exempt from the transportation licensing requirements of ch. NR 181, Wis. Adm. Code.

2. Consumers transporting waste engine oil shall be exempt from the transportation licensing requirements of NR 181, Wis. Adm. Code.

(b) Except as provided in par. (a), any person who transports engine waste oil shall obtain a license and comply with all the requirements for transportation services in ch. NR 180 or NR 181, Wis. Adm. Code, whichever is applicable.

(2) ANNUAL REPORTS. (a) Except for retailers and consumers exempted from licensing under sub. (1), all persons, including municipalities, who transport engine waste oil shall, in addition to complying with the requirements of either ch. NR 180 or NR 181, Wis. Adm. Code, prepare an annual report at the end of each calendar year which shall contain all of the following information:

1. The name and address of the transportation service or municipal agency, and its solid or hazardous waste transportation service license number.
2. The calendar year covered by the report.

3. The name and address of each engine waste oil collection and storage facility from which engine waste oil was transported during the calendar year.

4. The quantity of engine waste oil transported from each facility.

5. The names and addresses of the facilities where the engine waste oil was delivered.

6. The signature of a person authorized to sign on behalf of the transportation service or municipality.

(b) The annual report required in par. (a) shall be prepared no later than March 1 for the preceding calendar year. Transporters shall keep a copy of each annual report for a period of at least 3 years. The reports shall be kept at a reasonably accessible location and shall be available for inspection and copying upon request of any officer or employe of the department at reasonable times and with notice no later than upon arrival at the transportation service's office. Transporters may be required by the department to submit annual reports to the department within 3 years of their preparation.

NR 183.09 COMPLIANCE WITH SOLID AND HAZARDOUS WASTE REGULATIONS. Except as provided in ss. NR 183.05(1)(b) and (2)(d) and 183.08(1)(a), no person may construct, maintain or operate a site or facility for the collection, storage, transportation, recycling, treatment or disposal of engine waste oil unless the person complies with the requirements of ss. 144.43 to 144.47, Stats., and ch. NR 180, Wis. Adm. Code, or ss. 144.63 and 144.64, Stats., and ch. NR 181, Wis. Adm. Code, whichever requirements are applicable.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 24, 1982.

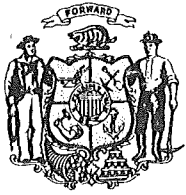
The rules contained herein shall take effect as provided in s. 227.026(1) (intro.), Stats.

Dated at Madison, Wisconsin May 7, 1982

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besedeny
Carroll D. Besedeny, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

May 7, 1982

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
C A P I T O L

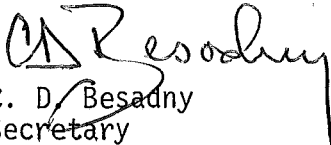
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Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-51-81. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Agriculture and Natural Resources pursuant to s. 227.018, Stats. There were no requests for modification.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


C. D. Besadny
Secretary

Enc.