

ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD REPEALING,  
AMENDING, REPEALING AND CREATING RULES

The Wisconsin Natural Resources Board adopts an order to **repeal** NR 488.07(2)Note; **amend** NR 488.01, 488.02(3) and (4), 488.03(1), (2), and (3)(a) and (b), 488.04(1)(intro.) and (a) and (2), 488.05(1)(a) and (2), 488.06(1)(intro.) and (c) and (2), 488.08 and Note, 488.09(1)(a) to (c), 488.10(1) and (2)(a)Note, 488.11(1)(a) and 488.12(3); and to **create** NR 488.02(4m) and Note relating to revising regulations concerning activities during the salvage and transport of equipment containing refrigerants that damage the atmosphere.

AM-66-04

Analysis Prepared by the Department of Natural Resources

1. **Statute interpreted:** s. 285.59, Stats.

2. **Statutory authority:** ss. 227.11(2)(a), 285.11(1), 285.59(5)(a) and (6), Stats.

3. **Explanation of agency authority:** Section 227.11(2)(a) gives agencies general rulemaking authority. Section 285.11(1) gives the Department authority to promulgate rules consistent with ch. 285, Stats. Section 285.59(5)(a) directs the Department to promulgate rules to administer s. 285.59, Stats. Section 285.59(6) provides the Department with authority to promulgate rules to apply the standards of ch. NR 488 to a substance used as a substitute for an ozone-depleting substance.

4. **Related statute or rule:** Chapters ATCP 136, COMM 5 and COMM 45, Wis. Adm. Code.

5. **Plain language analysis:**

1989 Wisconsin Act 284, amended by 1991 Wisconsin Act 97 and 1993 WI Act 243, created programs to control emissions of ozone-depleting refrigerants when servicing and salvaging refrigeration and air conditioning equipment. Ozone-depleting refrigerants include chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). Programs at the Depts. of Agriculture, Trade & Consumer Protection (DATCP) and Commerce (previously Dept. of Industry, Labor and Human Relations, DILHR) regulate those who install and service vehicle and “stationary” equipment, respectively. The Department of Natural Resources (DNR) regulates those who salvage such equipment and recover the refrigerants for the final time, as well as those who haul refrigerated appliances intended for salvage.

**CURRENT RULE SUMMARY:** Chapter NR 488 requires persons, including businesses, municipalities and state agencies, who salvage or dismantle refrigeration equipment containing ozone-depleting refrigerants (ODRs), to register with the DNR and certify their use of approved recovery equipment by qualified individuals. Persons who transport such refrigeration equipment for salvage purposes are required to certify safe handling methods are used to prevent refrigerant releases. Those who salvage equipment are required to maintain certain records of their activities and to provide documentation of proper refrigerant removal as they deliver salvaged equipment to scrap metal processors. Fees are established for registration of salvagers, safe transport certification, and approval of courses to qualify individuals for refrigerant recovery.

**SUBSTITUTE REFRIGERANTS:** The DNR is proposing to apply the ch. NR 488 requirements to salvaging and transporting equipment containing substitutes for ozone depleting substances, namely HFC (hydrofluorocarbon) and PFC (perfluorocarbon) refrigerants. HFC refrigerants have been utilized in nearly all vehicle air-conditioners manufactured since 1995 and are increasingly found in appliances, vending machines, and residential and commercial air conditioning and refrigeration systems being retired. PFC refrigerants have only seen very limited use in specialized refrigeration systems.

Releasing any substitutes for ODRs when salvaging any type of refrigeration equipment has been banned under the federal 1990 Clean Air Act Amendments since 1995. In March, 2004, the U.S. Environmental Protection Agency (EPA) clarified this ban, determining that HFC and PFC refrigerants are global-warming substances and “have adverse environmental effects” and specifically continuing the federal ban on releasing HFC and PFC refrigerants. The EPA did not continue the venting ban on other substitute refrigerants, concluding that releases of several substitute refrigerants are adequately restricted by other regulations and others do not pose any harmful environmental effects (see 6 below).

Adding HFC and PFC refrigerants to ch. NR 488 will mean those who recover these refrigerants during salvage will have to register with the DNR, use approved recovery equipment, continue to have at least one person on their staff who holds the appropriate certification to operate the equipment; and keep records of their recovery activities. They will also have to supply documentation that these refrigerants have been recovered from any equipment they deliver to a scrap metal processor, a procedure already in effect in this industry in response to the federal release ban. The requirements for equipment and operator certification are the same as have been previously required.

**RECORD KEEPING:** The DNR proposes to modify two record keeping requirements in ch. NR 488.

First, those who recover refrigerants from salvaged equipment will be required to keep more specific records of processed items to allow better tracking and enforcement of regulated activities. Current language in s. NR 488.06(1)(c) requires those entities registered to recover refrigerants during salvage to keep records of “the type and quantity of refrigeration equipment salvaged or dismantled.” These records can simply indicate they have processed “12 refrigerators, 7 window ACs, 5 humidifiers in May 2004” or “5 cars in July, 2004.” These generic descriptions have not been adequate to determine if someone has actually recovered refrigerants from particular items they have on their property or that they have transferred to a scrap processor. This has posed a problem for the DNR when trying to determine compliance for what has been processed and tracking items as they move through the salvage system. The proposed language requires more specific identification of individual units processed to allow better tracking and enforcement of regulated activity. For example, auto salvagers could record the make, model and VIN (vehicle ID number) of each vehicle with an AC system and note when the system was determined empty or was evacuated. Those salvaging appliances or other “stationary” equipment could record the type (e.g., refrigerator, freezer), make, model and identification number (or markings they apply) to identify the unit.

Second, anyone who sells, gives or transports salvaged refrigeration equipment to a scrap processor must now supply a document to the scrap processor assuring that all remaining refrigerants have been recovered from the items they deliver. Language in s. NR 488.06(2) requires the scrap processor to retain this document for three years. The DNR proposes to require anyone who provides this document to a scrap processor to retain a copy of it themselves for three years. This would provide assurance to the salvager that they have complied with this requirement, as well as an instant determination of such compliance during DNR inspections.

**OPERATOR QUALIFICATIONS:** Chapter NR 488 establishes qualifications for individuals operating or supervising the operations of equipment used to recover refrigerants from salvaged equipment. The DNR proposes to clarify and update the qualifications for individuals recovering from “stationary” equipment (e.g., appliances, building air conditioners) during salvage. Section NR 488.08 currently qualifies operators who have completed training programs approved by DILHR under ch. ILHR 45. DILHR has since been re-organized under the Department of Commerce. In 1998, Commerce replaced ILHR 45 with COMM 45, revising their codes to place the qualifications for “refrigerant handling technicians” under s. COMM 5.72. This code no longer requires technicians working on stationary equipment to attend a state-approved training program, and instead requires operators to provide their federal credential issued per 40 CFR Part 82.161, along with a state application and fee. The DNR proposes to qualify operators who meet the qualifications for the Commerce refrigerant handlers credential under s. COMM 5.72(3) by holding the appropriate federal credential.

**REFERENCE AND WORDING CLARIFICATIONS:** Several sections of NR 488 make reference to regulations

previously administered by the Department of Industry, Labor and Human Relations. These references will be changed to properly refer to Department of Commerce codes. Four sections of NR 488 that make reference to “registration of certification” will be changed to refer more simply to “registration” in order to clarify the meaning of this term as used in this regulation.

## **6. Summary of, and comparison with, existing or proposed federal regulation:**

**FEDERAL PROGRAM:** Title VI of the 1990 Clean Air Act Amendments serves to implement the 1987 Montreal Protocol, an international agreement meant to reduce emissions of man-made chemicals that are depleting the earth’s protective ozone layer. Section 608 of Title VI required the U.S. EPA to establish a comprehensive program to limit emissions of ODRs during the maintenance, repair or disposal of air-conditioning and refrigeration equipment. Section 608 also includes a strict prohibition on venting CFC and HCFC refrigerants which went into effect on July 1, 1992.

Regulations promulgated under Section 608 are presented in 40 CFR Part 82 Subpart F. These regulations vary according to the type of equipment being salvaged and the amount of refrigerant contained. For equipment that is typically dismantled on-site before disposal (e.g., retail food refrigeration, central residential air conditioning, chillers and industrial process refrigeration), the refrigerant must be recovered in accordance with EPA’s requirements for servicing, including standards for recovery equipment and operator certification. The recovery equipment must be tested by an EPA-approved laboratory to meet these industry-based standards. Operators of this equipment must be certified under EPA standards set in 40 CFR part 82.161. Chapter NR 488 standards are consistent with these provisions.

Equipment that typically enters the waste stream with the charge intact (e.g., vehicle air conditioners, household refrigerators and freezers, room air conditioners, vending machines) is subject to special EPA safe disposal requirements. Equipment used for refrigerant recovery from “small appliances” must meet certain performance standards, but does not need to be tested by a laboratory. Operators recovering from this equipment are not required to hold individual certification. If the recovery takes place at a vehicle service facility, the operator must hold a federal certification for servicing AC equipment. Those salvaging vehicle air conditioners are required to use recovery equipment that meets certain industry-based performance standards but the equipment does not need to be tested by a laboratory. Chapter NR 488 requires recovery equipment to meet standards that are consistent with the federal standards, but the equipment must also be tested by a nationally recognized testing laboratory. Operators of the equipment (or their supervisor) must hold the appropriate certification (see OPERATOR QUALIFICATIONS, below).

EPA requires persons delivering small appliances or vehicles with air conditioners for final disposal at scrap metal yards or landfills to provide a signed statement that the refrigerant has been removed, unless the final disposal facility agrees to perform this recovery. Chapter NR 488 is consistent with this requirement.

**REGISTRATION:** Persons recovering ODRs from any type of equipment for purposes of disposal must certify to the EPA that they have acquired refrigerant recovery equipment that meets standards in 40 CFR Part 82.158 and that they are complying with requirements of 40 CFR Part 82 Subpart F. Similarly, ch. NR 488 requires those who salvage or dismantle refrigeration equipment containing ODRs to register with the DNR and certify their use of approved recovery equipment by qualified individuals. The EPA-required certification is a one-time requirement with no fee; registration for ch. NR 488 is an annual requirement with appropriate fee (see 5 above).

**SUBSTITUTE REFRIGERANTS:** The proposed rule will apply the ch. NR 488 standards to those salvaging, dismantling and hauling refrigeration equipment that contains two classes of refrigerants that are used as substitutes for ODRs and are also banned from being released under federal law. Effective November 15, 1995, section 608(c)(2) extended the prohibition on venting to substances that are substitutes for class 1 (CFC) and class 2 (HCFC) refrigerants, unless the EPA determines that such venting or release does not pose a threat to the environment. On March 12, 2004 (CFR Vol.69 No.49) the EPA amended the rules on refrigerant recycling to clarify how the venting prohibition in Section 608 applies

to substitute refrigerants. In this ruling, the EPA identified five classes of substitute refrigerants: HFCs, PFCs, hydrocarbons, chemically active common gases (including ammonia and chlorine) and inert atmospheric constituents (including carbon dioxide, nitrogen and water).

For HFC and PFC refrigerants, EPA found them to be strong global warming gases having adverse environmental effects and that no other regulations govern the release of such substitutes (see Section 8 below). Because releases of ammonia, chlorine and hydrocarbon refrigerants from their currently approved air-conditioning and refrigeration applications are adequately addressed by other authorities, EPA determined that releases of these substitute refrigerants do not pose a threat to the environment under section 608(c)(2). In addition, the EPA determined that the release of CO<sub>2</sub>, elemental nitrogen, or water during the maintenance, repair and disposal of air-conditioning and refrigeration equipment does not pose a threat under section 608(c)(2). In their March 12, 2004 ruling, EPA created these definitions for use in 40 CFR Part 82.152:

“*Refrigerant* means, for the purposes of this Subpart, any substance consisting in part or whole of a class I or class II ozone-depleting substance that is used for heat transfer purposes and provides a cooling effect, or any substance used as a substitute for such a class I or class II substance by any user in a given end-use, except for the following substitutes in the following end-uses:

- (1) Ammonia in commercial or industrial process refrigeration or in absorption units;
- (2) Hydrocarbons in industrial process refrigeration (processing of hydrocarbons);
- (3) Chlorine in industrial process refrigeration (processing of chlorine and chlorine compounds);
- (4) Carbon dioxide in any application;
- (5) Nitrogen in any application; or
- (6) Water in any application.”

“*Substitute* means any chemical or product, whether existing or new, that is used by any person as an EPA approved replacement for a class I or class II ozone-depleting substance in a given refrigeration or air-conditioning end-use.”

Thus the EPA determined that the section 608(c)(2) statutory venting prohibition for substitute refrigerants applies to HFC and PFC refrigerants, but not to the other classes of refrigerants under consideration. The DNR considered this ruling, as well as the proliferation of vehicles, appliances and other equipment with HFC refrigerants entering the salvage arena, to be an appropriate basis to add HFC and PFC refrigerant categories to be controlled by ch. NR 488 provisions at this time.

**OPERATOR QUALIFICATIONS:** Federal regulations to qualify operators of recovery equipment during salvage vary according to the type of equipment being recovered and refrigerant charge contained (see description above). The DNR proposes to reference the state Department of Commerce qualifications, which in turn reference federal requirements under 40 CFR part 82.161, for those performing recovery from stationary equipment during salvage. This action will provide a straightforward means for salvage operators to obtain proper certification. This requirement will be consistent with federal requirements for stationary equipment containing over 5 pounds of refrigerant, but will be more stringent for those salvaging small appliances containing less than 5 pounds of refrigerant.

For those recovering refrigerants from vehicle air conditioners during salvage, Chapter NR 488 requires operators to complete a training program approved by the Department of Agriculture, Trade and Consumer Protection under ATCP 136 for those servicing vehicle air conditioners.

The proposed rule is more stringent than the federal requirements because the EPA does not require any training for those recovering refrigerants from small appliances or vehicle air conditioners during salvage. The DNR is concerned that some training is essential for those salvaging household appliances and vehicles and who are likely not to have any experience or training in handling refrigerants, especially regarding safety issues.

**SAFE TRANSPORT REQUIREMENTS:** Federal regulations strictly prohibit any person to knowingly vent or

otherwise release refrigerants (ODRs, HFCs and PFCs) into the environment, including during transporting any type of equipment for disposal. Chapter NR 488 reflects this prohibition, and also requires those who perform this transport to certify to the DNR that they will not knowingly or negligently release ODRs. This certification is required annually, including a description of the safe transport methods to be used and a fee based on the number of trucks they use for such transport and whether they are registered to recover refrigerants.(see 5 above).

#### **7. Comparison with rules in adjacent states:**

**Iowa** requires that all appliances must be demanufactured before disposal, with proper removal of refrigerants, PCBs and mercury. Anyone demanufacturing appliances must store, handle and demanufacture them in a manner which prevents refrigerant releases. No more than 1000 discarded appliances may be stored in any one location and for no longer than 270 days without demanufacturing. Demanufacturing must take place on an impervious surface at least 50 feet from a well or body of water. The facility must mark each demanufactured appliance with a unique marking system, with the marking measuring at least nine inches by nine inches. Each facility must have at least one owner or full-time employee who has completed an Iowa-DNR-approved training program covering removal, storage and spills of refrigerants and other materials and general appliance handling and demanufacturing procedures.

Anyone demanufacturing appliances must obtain an Appliance Demanufacturing Permit before beginning operations and renew this permit every three years, at least 30 days before the permit expires. This application must include detailed information on how each type of appliance will be demanufactured, documentation showing compliance with the training requirement, a copy of the unique marking system and documentation of compliance with other environmental requirements. There is no fee for submitting this application; all work done under this regulation is supported from general funding sources. The Iowa DNR must inspect the facility for compliance with all applicable regulations before the facility begins operations. Iowa has no statutes or regulations regarding refrigerant recovery for vehicle salvage activities. They refer questions and concerns to the US EPA.

**Illinois** has no statutes or regulations regarding refrigerant recovery or safe transport during salvage activities. They refer questions and concerns to the US EPA.

**Michigan** has no statutes or regulations regarding refrigerant recovery or safe transport during salvage activities. They refer questions and concerns to the US EPA.

**Minnesota** has adopted and incorporated by reference the requirements for “Recycling and Emissions Reduction” contained in 40 CFR Part 82 Subpart F, with some additional requirements that exceed federal standards. Persons disposing of any type of refrigerant equipment must meet the federal requirements for recovery equipment, and must also use operators who are certified under the categories listed in 40 CFR Part 82.161 for recovering refrigerant from any type of “stationary “ equipment, including small appliances. Those recovering refrigerants from vehicle air conditioners must use certified technicians only if the refrigerant will be recharged into a vehicle air conditioner, as opposed to sent off for reclaiming. Those recovering refrigerants must supply a “Verification of Refrigerant Removal” form to scrap or salvage companies accepting salvaged stationary or mobile equipment. Persons who recycle any type of refrigerated appliances which contain ozone-depleting refrigerants must self-certify annually that they have acquired recovery equipment that meets US EPA standards [40 CFR 82.158(m)]and that only federally-certified technicians will use the equipment. Their certification form includes an optional section for salvagers to report the number of appliances and vehicle air conditioners processed, amount of refrigerant recovered, amount of refrigerant sent off site and destination, amount of PCB wastes. No fees are charged for this notification. Those who provide all of the information requested on this certification form are placed on a “List of Appliance Processors Handling Refrigerants.” All salvagers must keep copies of this self-certification on site, and copies of technician’s certifications while employed and for three years after termination. State law also requires persons who recover refrigerants from salvaged equipment to “demonstrate, upon request of an authorized representative of the commissioner, the ability to perform proper procedures for refrigerant recovery,” as described in 40 CFR Part 82, subparts B and F. This program has no dedicated staff or funding.

**8. Summary of factual data and analytical methodologies:**

**SUBSTITUTE REFRIGERANTS:** In their March 12, 2004 ruling, the EPA found that HFC and PFC refrigerants, once released into the atmosphere, have the ability to trap heat that would otherwise be radiated from the earth back into space. This ability, along with the relatively long lifetime of these gases, give HFCs and PFCs relatively high global warming potentials (GWPs: one kilogram of CO<sub>2</sub> has a GWP=1). The global warming impact of releasing a kilogram of HFCs or PFCs ranges from 140 to 11,700 times the impact of releasing a kilogram of CO<sub>2</sub>.

Under the EPA Significant New Alternatives Program (SNAP), HFC refrigerants (either pure or in blends) have been approved for use in almost every major air-conditioning and refrigeration end-use, including household refrigerators, motor vehicle air-conditioners, retail food refrigeration, comfort cooling chillers, industrial process refrigeration, and refrigerated transport. Under SNAP, PFC refrigerants have been approved for relatively few end-uses, including some heat transfer applications and uranium isotope separation.

**9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** The DNR surveyed a number of parties and two industry associations before proposing these revisions, and received four public comments on them during the public comment period. The main concern expressed was that the DNR work to assure a “level playing field” within this industry. No one suggested that adding HFC and PFC refrigerants, requiring salvagers to maintain copies of their documentation to scrap processors, and updating operator qualifications would present any problems to small businesses. One person expressed concerns that keeping more detailed refrigerant recovery records could involve more work for their large appliance salvager operation. In communications with and inspections of small businesses affected by this rule, the Department concludes that these revisions will not have any significant economic impact on small businesses.

An economic impact report has not been requested for this rule.

**10. Anticipated costs incurred by private sector:** Most of the businesses regulated under this program are small businesses. The additional records required by this proposal for those who salvage or dismantle equipment should not require a significant amount of additional costs by these parties.

**11. Effect on small business:** The proposed rule will affect small businesses who recover refrigerants from refrigeration and air conditioning equipment that is to be salvaged or dismantled, typically vehicle and appliance salvagers, appliance retailers and HVAC contractors who are replacing air conditioning equipment or preparing buildings for demolition. Approximately 400 such businesses will be affected. The rule also affects small businesses that haul refrigerated appliances to be salvaged, typically waste haulers, recycling facilities and appliance stores and salvagers. Approximately 70 such businesses are affected.

Those who recover refrigerants from salvaged refrigeration and air conditioning equipment will be required to keep more detailed records of the equipment they process than under previous rule language. These same parties will also be required to keep a copy of the document they provide to a scrap processor stating that all refrigerants will be removed from any equipment they deliver for scrap. Previous rule language did not require that those providing this documentation to scrap processors must keep a copy for themselves. Adding the HFC and PFC refrigerants will not require additional recovery work by these parties, since recovery of these refrigerants has been required under federal law since 1995.

**12. Agency contact person: (including email and telephone):**

Lance Green: (608) 264-6049 lance.green@dnr.state.wi.us

Patrick Kirsop: (608) 266-2060 patrick.kirsop@dnr.state.wi.us

-----  
-----

SECTION 1. NR 488.01 is amended to read:

NR 488.01(1) APPLICABILITY. This chapter applies to any person who salvages or dismantles mechanical vapor compression refrigeration equipment, any person who transports such equipment for salvaging or dismantling, any individual who uses or supervises the use of equipment to transfer ~~ozone-depleting~~ regulated refrigerants from salvaged or dismantled mechanical vapor compression refrigeration equipment into storage tanks, any person who conducts a program to train operators of refrigerant recovery equipment and any person who conveys mechanical vapor compression refrigeration equipment to a scrap metal processor for metal recovery.

(2) PURPOSE. The purpose of this chapter is to establish, pursuant to s. 285.59, Stats., requirements for the recovery of ~~ozone-depleting~~ regulated refrigerants from salvaged or dismantled mechanical vapor compression refrigeration equipment.

SECTION 2. NR 488.02(4m) and Note are created to read:

NR 488.02(4m) “Regulated refrigerant” means a substance used in refrigeration equipment to transfer heat and which is an ozone-depleting refrigerant or any substance used as a substitute for an ozone-depleting refrigerant which is a hydrofluorocarbon (HFC), a perfluorocarbon (PFC) or a blend of any of these substances.

Note: Hydrofluorocarbon refrigerants include, but are not limited to HFC-125 and HFC-134a; and perfluorocarbon refrigerants include, but are not limited to perfluoromethane and perfluoropropane.

SECTION 3. NR 488.02(3) and (4) are amended to read:

NR 488.02 (3) "Refrigerant recovery" means the transfer of ~~ozone-depleting~~ regulated refrigerant from refrigeration equipment to an external container.

(4) "Refrigeration equipment" means any mechanical vapor compression device designed to contain and utilize ~~an ozone-depleting~~ a regulated refrigerant including, but not limited to, motor vehicle air conditioners, industrial and commercial cooling and ice-making equipment, large building cooling systems and home appliances such as refrigerators, freezers, room and central air conditioners, and dehumidifiers.

SECTION 4. NR 488.03(1), (2), and (3)(a) and (b) are amended to read:

NR 488.03(1) During the salvaging, dismantling or transporting of refrigeration equipment, no person may knowingly or negligently release ~~ozone-depleting~~ regulated refrigerant to the environment, except for minimal releases that occur as a result of efforts to transfer ~~ozone-depleting~~ regulated refrigerant into storage tanks.

(2) No person may knowingly or negligently release from a storage tank to the environment ~~ozone-depleting~~ regulated refrigerant that was removed during the salvaging, dismantling or transporting of refrigeration equipment, except for minimal releases that occur as a result of efforts to transfer ~~ozone-depleting~~ regulated refrigerant into refrigeration equipment or other storage tanks.

(3)(a) That person holds and prominently displays an annual registration ~~of certification~~ obtained from the department under s. NR 488.04.

(b) That person uses refrigerant recovery equipment approved by the department under s. NR 488.07 to transfer remaining ~~ozone-depleting~~ regulated refrigerant from each piece of refrigeration equipment into storage tanks.



SECTION 5. NR 488.04(1)(intro.) and (a) and (2) are amended to read:

NR 488.04(1)(intro.) REGISTRATION. In order to obtain an annual registration ~~of certification~~ to salvage or dismantle refrigeration equipment, as required under s. NR 488.03 (3) (a), a person shall submit an application on forms supplied by the department along with the fee required under s. NR 488.11, and certify both of the following to the department:

(a) That remaining ~~ozone-depleting~~ regulated refrigerants will be transferred from each piece of refrigeration equipment into storage tanks using approved refrigerant recovery equipment and procedures which will minimize the release of ~~ozone-depleting~~ regulated refrigerants to the environment.

(2) ISSUANCE. The department shall issue the registration ~~of certification~~ within 30 days of receipt of a completed application and the fee required under s. NR 488.11.

SECTION 6. NR 488.05(1)(a) and (2) are amended to read:

NR 488.05(1)(a) Transfer ~~ozone-depleting~~ regulated refrigerant from the refrigeration equipment into a storage tank using approved refrigerant recovery equipment or obtain and possess documentation that another person performed the transfer.

(2) EXEMPTION. Subsection (1) does not apply to a person who sells, gives or transports refrigeration equipment to a scrap metal processor when that processor has agreed in writing to transfer the ~~ozone-depleting~~ regulated refrigerant into a storage tank using approved refrigerant recovery equipment and is registered with the department under s. NR 488.04.

SECTION 7. NR 488.06(1)(intro.) and (c) are amended to read:

NR 488.06 (1)(intro.) SALVAGER OR DISMANTLER. Persons ~~registered under s. NR 488.04~~ who salvage or dismantle refrigeration equipment shall keep records of their refrigerant recovery

activities. These records shall be kept for 3 years, shall be made available to the department upon request and shall include:

(c) The type and quantity of equipment, the serial number or other identification number of each individual unit of refrigeration equipment salvaged or dismantled, and the date that the person either recovers the regulated refrigerant from that unit or determines that no regulated refrigerant remained in that unit. Examples of records suitable to identify individual units of refrigeration equipment include make, model and vehicle identification number (VIN) for vehicles with air conditioning, and numbering or marking which uniquely identifies each unit of refrigeration equipment salvaged or dismantled.

SECTION 8. NR 488.06(2) is amended to read:

NR 488.06(2) CONVEYANCE TO SCRAP METAL PROCESSORS. Documentation provided under s. NR 488.05 shall be retained by both the provider and the recipient for 3 years and shall be made available to the department upon request.

SECTION 9. NR 488.07(2)Note is repealed.

SECTION 10. NR 488.08 including the Note is amended to read:

NR 488.08 QUALIFICATIONS OF INDIVIDUALS WHO USE APPROVED REFRIGERANT RECOVERY EQUIPMENT. To be qualified to use or supervise the use of approved refrigerant recovery equipment, an individual shall successfully complete a training program specifically designed to ~~train~~ certify that individual to recover refrigerant from the type of refrigeration equipment that individual will salvage or dismantle. This training program shall be approved by the department under s. NR 488.09, or

approved by the department of agriculture, trade & consumer protection under ch. ATCP 136 or the department of commerce under ch. COMM 45 5.

Note: ~~Training Certification~~ for individuals performing refrigerant recovery from salvaged vehicle air conditioners can be provided by training programs approved by the Wisconsin department of agriculture, trade and consumer protection under s. ATCP 136.08. ~~Training Certification~~ for individuals performing refrigerant recovery from stationary equipment such as appliances, residential and building air conditioning systems, and commercial cooling systems can be provided by training programs approved by the Wisconsin department of ~~industry, labor and human relations~~ commerce under s. COMM 5.72, which qualifies individuals who hold a federal certification issued pursuant to 40 CFR Part 82.161.

SECTION 11. NR 488.09(1)(a), (b) and (c) are amended to read:

NR 488. 09(1)(a) A presentation of the environmental concerns, including the destruction of stratospheric ozone and the global greenhouse effect, relating to the emission of ~~ozone-depleting regulated~~ refrigerants.

(b) A presentation of applicable state and federal laws regulating the recovery and handling of ~~ozone-depleting regulated~~ refrigerants.

(c) Instruction on general safety precautions to be followed during the recovery and handling of ~~ozone-depleting regulated~~ refrigerants.

SECTION 12. NR 488.10(1) and (2)(a)Note are amended to read:

NR 488.10 (1) SAFE TRANSPORT CERTIFICATION. Any person who transports, for the purposes of salvaging or dismantling, refrigeration equipment that contains ~~ozone-depleting regulated~~ refrigerant shall certify to the department that that person will not knowingly or negligently release

~~ozone-depleting~~ regulated refrigerant to the environment, except for minimal releases that occur as a result of refrigerant recovery efforts. This certification shall be submitted annually, along with a description of the safe transport methods to be used, and the fees required under s. NR 488.11. The department shall provide a receipt acknowledging the submission of this certification and fees.

(2)(a)Note: Individuals are prohibited from releasing ~~ozone-depleting~~ regulated refrigerants in s. NR 488.03(1).

SECTION 13. NR 488.11(1)(a) is amended to read:

NR 488.11(1)(a) Persons applying for annual registration ~~of certification~~ to salvage or dismantle refrigeration equipment under s. NR 488.04 shall submit a nonrefundable fee of \$250.00, except as provided under par. (b).

SECTION 14. NR 488.12(3) is amended to read:

NR 488.12(3) Any person who releases ~~ozone-depleting~~ regulated refrigerant in violation of s. NR 488.03(1) or (2) or who transports refrigeration equipment in violation of s. NR 488.10(1) shall forfeit not less than \$100 nor more than \$1000. Each release in violation of s. NR 488.03(1) or (2) or transport in violation of s. NR 488.10(1) constitutes a separate violation.

SECTION 15. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 16. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 22, 2005.

Dated at Madison, Wisconsin \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)