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## Questions & Answers

### Ohio-Specific Universal Wastes

#### Antifreeze, Paint and Paint-related Wastes

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**THIS POLICY DOES NOT HAVE THE FORCE OF LAW**

**Hazardous Waste Program**

*On December 21, 2017, Ohio EPA's Ohio-specific universal waste rules became effective making hazardous non-empty aerosol cans, hazardous antifreeze and hazardous paint and paint-related wastes eligible to be classified and managed as a universal waste in Ohio. Ohio's universal waste rules can be found in **Chapter 3745-273** of the Ohio Administrative Code (OAC). On October 23, 2022, Ohio EPA revised the Ohio-specific universal waste rules in accordance with U.S. EPA's addition of aerosol cans as a universal waste. Aerosol cans are no longer an Ohio-Specific universal waste, however hazardous non-empty aerosol cans can be managed as a universal waste under OAC rule **3745-273-06**.*

*Hazardous wastes meeting certain criteria can be classified as a universal waste if the overseeing agency so chooses. A universal waste is a unique category of hazardous waste and eligible to be managed under less burdensome handler and transporter requirements. However, the receiving destination facility (i.e., permitted hazardous waste facility) must manage the universal waste in full compliance with the hazardous waste rules. The destination facility will need to know: 1) what the waste is, 2) why it is hazardous, 3) if the waste would otherwise be defined as a listed hazardous waste and 4) what constituents in the waste will need to be treated to comply with the land disposal restriction rules. Therefore, the destination facility will likely request this information from the handler that shipped the universal waste.*

#### **Handlers and Destination Facilities**

1. What is the difference between a "universal waste handler" and a "universal waste destination facility?" Can a facility be both a destination facility and a universal waste handler?

**Answer:** The definition of each of the terms can be found in OAC rule 3745-273-09. In short, a handler is a person who only stores or treats the universal waste as allowed according to OAC rules 3745-273-13 or 3745-273-33. A destination facility is a person that stores and treats the universal waste using methods and processes not included in OAC rules 3745-273-13 or 3745-273-33.

Yes, a facility can be both a universal waste handler and a destination facility. For example, a facility accepts universal paint-related waste from an off-site handler. The facility blends some of the waste with other

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wastes to produce a hazardous waste fuel and some of the paint-related waste is only stored prior to being sent to another facility for reclamation.

The facility is a destination facility because it blends the universal paint-related waste to make a fuel. Blending universal wastes is not a treatment method that is allowed under the handler requirements. The facility is also a handler because it only stores some the universal paint-related waste prior to sending the waste to another facility. Storage of universal waste is an activity that is allowed under the handler requirements.

2. Where can a permitted hazardous waste treatment facility store universal wastes until such time it becomes a hazardous waste?

**Answer:** If the permitted hazardous waste treatment facility is not going to manage the universal waste according to the universal waste handler requirements, then the universal waste must be managed as a hazardous waste when it arrives at the permitted hazardous waste treatment facility. Wastes managed according to the universal waste handler rules may be stored in an area of the facility chosen by the facility operator prior to shipping the universal wastes to another handler or destination facility.

3. Does universal waste count against a permitted hazardous waste treatment facility's hazardous waste storage capacity?

**Answer:** If the permitted hazardous waste treatment facility is managing the universal waste according to the universal waste handler requirements, it is not counted against a permitted hazardous waste treatment facility's hazardous waste storage capacity. If the permitted facility is a universal waste destination facility and treats the waste in a manner not allowed under the handler requirements, then the universal waste is subject to management under the full hazardous waste management requirements and must be counted against a facility's permitted hazardous waste storage capacity.

4. Under the universal waste rules, a universal waste handler is neither required to evaluate a universal waste to determine what type of hazardous waste it is nor, for the purposes of the land disposal restrictions program, identify the constituents for which the waste needs treated. However, once the universal waste arrives at a destination facility it is subject to the hazardous wastes rules and the destination facility that treats the universal waste needs to know whether the waste is hazardous waste and what constituents the waste must be treated for. Since the universal waste program does not require the waste generator to provide this information, how can a destination facility determine this required regulatory information?

**Answer:** To obtain the needed information, the destination facility may require the universal waste handler to provide waste information similar to the information needed to complete the land disposal restriction (LDR) notification form, request the handler to test the waste or the destination facility can perform analysis according to the facility's waste analysis plan.

5. It is our understanding that paint-related waste material, including but not limited to: drummed waste, bulk waste, and waste waters, can now be handled as universal waste if the generator of the waste so chooses. The universal wastes would not carry the hazardous waste listed and characteristic codes (e.g. F002, F003, F005 or D001), they would simply be classified as Universal Waste and transported as flammable material.

**Answer:** Under the universal waste program, the handler of the universal waste does not need to identify the hazardous waste codes applicable to the waste. Also, the waste does not need to be manifested on a hazardous waste manifest while in Ohio but, it does need to be transported according to U.S. DOT rules. Be aware that universal wastes must be managed according to the full hazardous waste rules once it arrives at the destination facility; a waste water treatment facility is a destination facility, see OAC rule 3745-273-60. Therefore, the waste water treatment facility (i.e., destination facility) will need to know the wastes codes,

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both listed and characteristic, applicable to the wastes and the constituents for which the waste needs to be treated as required under the land disposal restrictions program. Any treatment residuals from the treatment of listed hazardous wastes will also be listed hazardous wastes due to the derived-from rule, OAC 3745-51-03 (C)(2).

6. Most of our universal waste goes to Kentucky. Upon entering another state, the waste must be classified per the receiving state's rules. If the waste is classified as a hazardous waste in the receiving state, a manifest will be required. How is this accomplished? I can't see the truck driver pulling over and changing the shipping paper to a hazardous waste manifest. We could manifest the waste off as hazardous, however, how would an inspector know it was managed as a universal waste prior to shipment?

**Answer:** The easiest solution is to manifest the Ohio-specific universal waste to the out of state destination facility and note on the manifest, in box 14, that the waste is classified and managed as a universal waste in Ohio.

7. Is a generator of universal waste the same as a handler?

**Answer:** If a generator of a waste that meets the criteria of a universal waste chooses to handle the waste according to the universal waste rules, then the generator is a universal waste handler. A handler can also be a person that acts as a collection site for universal wastes generated by off-site universal waste handlers.

8. If a hazardous waste manifest is NOT required, do universal wastes ship on a bill of lading?

**Answer:** Most likely a bill of lading will be used to accompany the universal waste shipment to the next handler or destination facility. However, the bottom line is to follow the U.S. DOT requirements for the shipment of the materials.

9. If I already have a hazardous waste number, do I need to re-notify Ohio EPA that I am a large quantity handler of universal waste?

**Answer:** No, but you can update your notification information if you like so that Ohio EPA has complete and correct information regarding the facility.

10. Is the destination facility the generator of the hazardous waste once the universal waste is received at the destination facility?

**Answer:** No. Universal wastes are a unique category of hazardous wastes that become subject to management under the full hazardous waste rules when it arrives at the destination facility. The generator is the person that produced the waste.

### Antifreeze

16. Would glycols from a chiller unit qualify as an eligible universal waste glycol?

**Answer:** Yes, if the glycol in question is either ethylene or propylene glycol.

17. If antifreeze is not used in heat transfer equipment, is it still eligible for universal waste inclusion?

**Answer:** No. The definition of antifreeze is limited to ethylene and propylene glycol used in heat transfer equipment or used to winterize equipment.

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18. Can nonhazardous antifreeze be managed as a nonhazardous waste or does all antifreeze have to be managed under the universal waste rules?

**Answer:** The universal waste rules are a streamlined regulatory program for the management of certain types of hazardous wastes. The generator of the hazardous waste has the choice to manage the waste under the universal waste rules or the full hazardous waste requirements. If the antifreeze generated is known to be a nonhazardous waste, the antifreeze can be managed as a nonhazardous waste.

19. Do the universal wastes rules applicable to antifreeze prohibit the commingling of antifreeze with used oil thereby rendering the mixture ineligible to be classified and managed as a universal waste? Many auto recyclers drain vehicles before crushing the vehicles and commingle the drained antifreeze with used oil. They then use gravity separation to separate the used oil and antifreeze for further recycling or reuse. Can the recovered antifreeze be classified and managed as a universal waste?

**Answer:** Antifreeze commingled, after generation, with used oil is no longer eligible to be defined as a universal waste and the mixture is not eligible to be managed under the universal waste rules. Such a mixture is defined as either a used oil, subject to regulation under OAC Chapter 3745-279 or as a hazardous waste, see OAC rule 3745-279-10(B).

If the antifreeze and used oil mixture is defined as a used oil, the separation activity may be performed by the generator of the mixture or by a used oil processor, see OAC rule 3745-279-20. The recovered antifreeze is eligible to be classified and managed as a universal waste. The used oil is subject to the used oil requirements.

If the antifreeze and used oil mixture is a hazardous waste and it is processed to separate the used oil and antifreeze, the company performing the activity must either be the generator of the mixture or be a permitted hazardous waste facility. The resulting separated components, antifreeze and used oil, need to be evaluated to determine if they are a hazardous waste.

20. Does a handler of universal waste antifreeze need to maintain a written procedure describing how antifreeze will be managed to prevent cross contamination?

**Answer:** Yes, Ohio EPA intended that the handler maintain a written plan describing how the antifreeze will be managed to prevent cross-contamination.

### Paint and paint-related waste

21. Does paint and paint-related wastes include multicomponent industrial coatings like: mastics amine based polymer coatings, epoxy phenolic coatings, resin coatings, urethanes, polyurethanes, epoxy coatings, isocyanate polymer coatings, flame control coatings, etc.

**Answer:** This question cannot be addressed with one universal answer. This is because the substances listed above can be formulated in many ways to produce different types of products some of which may meet the definition of paint and others that will not. The agency intended the scope of the definition of paint to convey the ordinary and common meaning of paint and not to include industrial coatings such as geotextiles, adhesives and foam insulation. Paint is a product commonly used to protect, color, decorate or convey an image or design on a surface.

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22. Is “ink” considered a “Paint” for the purposes of the universal waste rules?

**Answer:** Ink meeting the strict definition of “Paint” in OAC rule 3745-273-09 can be classified as a universal waste. Ink is a mixture of pigment, binder and suitable liquid which forms an adhering coating on a surface for decorating or conveying an image or design and therefore, can meet the distinguishing criteria of the definition of “Paint” under the universal waste rules.

23. Can paint-related waste generated from a lead abatement project be classified as universal waste?

**Answer:** In general, yes. However, construction and demolition debris contaminated with paint is not included in the scope of the definition of paint-related wastes.

24. Is paint and paint-related waste managed as universal waste in Ohio but shipped to a non-universal waste state for disposal or recycling required to be reported on the generator’s biennial hazardous waste report?

**Answer:** No. How a receiving state defines and regulates an Ohio-specific universal waste does not change the universal waste rules applicable to the Ohio generator.

25. If puncturing aerosol cans and the contents collected consist solely of paint, are the collected contents eligible to be classified as a universal waste?

**Answer:** Yes, if the contents collected from the aerosol cans consist solely of paint, they may be managed as a universal waste.

26. Are bulk waste solvents generated from the production of paint considered to be universal waste?

**Answer:** Only used solvent that is legitimately contaminated with paint can be classified as a universal waste. For example, bulk solvents generated at a paint manufacturing facility from the cleaning of paint vats is eligible to be classified as a universal waste.

27. Are liquid colorants (dispersions) defined as a paint? Liquid colorants are paint-related but not made and sold as finished paint. The liquid colorants are used in many industries in paints and coatings.

**Answer:** The ingredients used to make paint are not covered within the scope of the definition of paint or paint-related wastes with regard to the universal waste rules. Therefore, colorants are not included as a universal waste paint.

28. Please elaborate on the proper management and disposal of paint and paint waste types: Oil-based, latex-based, spray paints, dried paint in paint cans, paint chips falling off surfaces, etc. What can be disposed of as general trash? What must be considered universal waste?

**Answer:** First, the universal waste program is an optional waste management program for certain types of hazardous wastes. If a generator produces a waste that is eligible to be classified as a universal waste, the generator has the option to manage the waste as a universal waste or a hazardous waste. If the waste is not hazardous then it is not required to be managed under the hazardous waste rules or as a universal waste. In general, oil-based paints and spray (aerosol) paints will likely be a hazardous waste and can be managed under the universal waste rules. Latex paint is water-based and likely not a hazardous waste. It can be mixed with a hardening agent and disposed in the trash; however, no free liquids may be disposed in the trash. Dried paint in cans and paint chips, could be a hazardous waste. To be sure, the waste would need to be evaluated. However, the waste can be managed as a universal waste without being evaluated.

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29. Are spent solvents used to flush paint lines, that are contaminated with paint, eligible to be classified as a universal waste?

**Answer:** Yes, such spent solvents can be classified as a universal waste if the generator so chooses. Specifically, the solvent is a paint-related waste.

30. Would dry, powdered pigments and fillers be considered paint-related wastes, thus applicable to the universal waste rules?

**Answer:** No. The ingredients used to make paints are not included in the scope of the universal waste rules or the definition of paint.

31. Is satellite accumulation of waste applicable to paint and paint-related wastes if the paint and paint-related wastes are classified and managed as universal waste?

**Answer:** There is no satellite accumulation provision for paint and paint-related wastes managed under the universal waste rules.

32. Does “paint-related waste” need to be collected in separate collection containers from “paint” or can they be mixed together in the same container?

**Answer:** Universal waste paint and paint-related wastes can be combined in the same container. The handler needs to be aware that combining the two universal waste types may increase the disposal costs for the wastes.

33. If a company only punctures aerosol cans of paint and collects the paint in a 55-gallon drum, is the collected paint eligible to be managed as a universal waste paint or does the paint need to be evaluated to determine if it is a hazardous waste?

**Answer:** If the collected contents from aerosol cans consists solely of paint then the collected contents can be classified as a universal waste paint.

34. Are paint pens and nail polish eligible to be classified and managed as a paint or paint-related waste?

**Answer:** Yes.

35. Are non-empty aerosol cans of paint classified as “universal waste aerosol cans” or “universal waste paint?”

**Answer:** If the aerosol cans of paint will be punctured and emptied then the waste would be classified as universal waste aerosol cans. Aerosol cans of paint that will not be punctured may be classified as universal waste aerosol cans or universal waste paint.

36. Are paint and paint-related waste a single universal waste category? For example, is it Universal Waste – Paint and Universal Paint/Paint Related Waste or is it just Universal Waste – P/PRW?

**Answer:** Paint and paint-related are two separate waste streams, each having their own definition. However, because they are two separate waste streams does not prohibit a handler from combining them in one container for the purposes of proper management and disposal. Labeling the container “universal paint and paint-related waste” is sufficient to meet the container labeling requirement. The handler needs to be aware that combining the two universal waste types may increase the disposal costs for the wastes.

37. Are unused paint thinner and unused paint, considered a paint or paint-related universal waste once it’s considered to be a waste?

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**Answer:** Unused solvent (e.g., paint thinner) is not a “paint-related waste” because it has not been contaminated with paint from an operation listed in the definition of “paint-related waste.” Unused paint can be classified as a universal waste paint and managed under the universal waste rules.

38. Can Part A epoxy and Part B hardener be mixed together and rendered non-hazardous or does this define treatment of a hazardous waste?

**Answer:** The mixing of hazardous Part A epoxy and Part B hardener to render a waste non-hazardous for disposal meets the definition of hazardous waste treatment under the hazardous waste rules. Such treatment may be performed, on-site, by the generator of the hazardous waste, or by a permitted hazardous waste treatment facility. Please be aware that unwanted ingredients or components used to make a paint are not covered by the definition of paint or paint-related wastes. Therefore, the part A and part B components are not eligible to be designated and managed as a universal waste.

39. A contractor removes lead paint from an instrument panel. The paint chips are then added to a garbage bag along with the plastic containment, coveralls, gloves and a respirator filter. Is this paint-related waste?

**Answer:** The paint chips are eligible to be defined as a paint-related waste and managed as a universal waste. The paint contaminated plastic containment, coveralls, gloves and respirator filters are also covered by the definition of paint-related waste and eligible to be classified as a universal waste. The waste types can be combined in one container.

40. Do paint booth filters contaminated with paint meet the definition of paint-related waste?

**Answer:** Yes.

41. Do the RCRA 40 CFR Part 265 Subpart AA and BB air emission rules apply to tanks and containers storing paint and paint-related wastes, and to paint reclamation units? And, under what regulatory authority can Ohio EPA adopt rules that impose less stringent management and transportation requirements on hazardous waste aerosol cans, antifreeze and paint and paint-related wastes than the federal hazardous waste rules.

Tanks and containers storing universal waste paint and paint-related wastes, and units reclaiming paint wastes are not subject to the RCRA Part 265 Subpart AA and BB.

Per OAC rules 3745-273-80 and 3745-273-81, the director of Ohio EPA may classify additional hazardous wastes as state-specific universal wastes and establish state-specific management standards for the wastes. The rules are equivalent to the federal counterpart rules found in 40 CFR 273.80 and 273.81.

U.S. EPA developed and adopted the base universal waste program on May 11, 1995. The program classified hazardous waste batteries, mercury thermostats and recalled pesticides as universal wastes. In addition, the program included a petition process that allows a state the flexibility to add hazardous wastes to its list of universal wastes without requiring the wastes to be added at the federal level. Ohio EPA was authorized by U.S. EPA to implement the universal waste program in Ohio in lieu of U.S. EPA on January 20, 2006.

With regards to the Ohio-specific universal wastes that Ohio EPA adopted, U.S. EPA will not conduct any authorization review of the new state-only universal wastes and new management standards. U.S. EPA takes the position that, when it authorized a state to add wastes to the universal waste category, it authorized in advance the state's new, state-specific universal wastes and the management standards for such wastes. All changes to state regulations needed to implement a universal waste program for the new universal wastes automatically become part of the authorized state program once they take effect under state law.

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Therefore, should U.S. EPA inspect an Ohio facility for compliance with the universal waste rules, U.S. EPA would evaluate the facility per Ohio's universal wastes rules and not the federal hazardous waste rules; and under Ohio's universal waste rules, the hazardous waste air emission requirements do not apply to universal wastes managed by universal waste handlers.

### Miscellaneous

42. Is there any impact to a facility's generator status if you generate a waste that is classified as universal waste in Ohio, but classified as hazardous waste in the state where the permitted hazardous waste treatment facility is located? Example: If I generate 1,000 pounds of paint-related waste in Ohio, but send it to a Michigan treatment facility that manages it as a D001, D035 hazardous waste, do I need to add the 1,000 pounds to my facility's monthly total of hazardous waste generated?

**Answer:** No. Universal wastes do not count toward the Ohio generator's monthly hazardous waste generation rate regardless whether the wastes are classified as hazardous wastes in the state where the wastes are treated and disposed.

43. Is a facility defined as a large quantity handler of universal waste if it manages 5000 kg of universal wastes over a certain period of time per year?

**Answer:** No. A facility becomes a large quantity handler of universal waste when the combined total amount of all universal waste types managed on-site at any one time meets or exceeds 5000 kg.

44. How does the labeling of universal waste differ from hazardous waste labeling?

**Answer:** For the Ohio-specific universal wastes, the containers need to be labeled to identify the contents of the tank or container. The rule does not specify distinct terminology to be used. However, for the nationally common universal wastes (i.e., hazardous lamps, mercury containing equipment, recalled pesticides and batteries), specific terminology is required to be used to label containers and tanks.

Under the universal waste rules, the container or tank can also be labeled with the accumulation start date if the handler chooses that type of method to document how long the universal waste has been onsite. And, as always, when the containers are shipped off-site, they must be labeled according to U.S. DOT requirements.

For small and large quantity generators of hazardous waste, containers are labeled with the accumulation start date, the words "Hazardous Waste," and a description of the hazards of the waste. In addition, when the container is shipped off-site it must be labeled according to U.S. DOT requirements, see OAC rule 3745-52-32.

45. Is used oil considered universal waste?

**Answer:** No. Used oil is a specific waste type that is subject to its own set of regulations. The regulations can be found in OAC Chapter 3745-279.

### Contact

For more information, contact the Hazardous Waste Compliance Assurance Section of the [Division of Environmental Response and Revitalization](#) at 614-644-2924 or visit Ohio EPA's [Universal Waste Guidance Page](#).