

CORRESPONDENCE/MEMORANDUM

DATE: November 11, 2008

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TO: Kate Cooper – WA/5 *KC*FROM: Joan Burns – WA/5 *JB*SUBJECT: Management of Universal Wastes in Wisconsin – **UPDATED**

In Wisconsin, hazardous waste management is regulated under ch. 291, Wis. Stats., and chs. NR 660 to 670, Wis. Adm. Code. Those requirements were developed to ensure that hazardous waste is managed in ways that protect human health and the environment.

There are situations where those hazardous waste requirements may discourage proper management of certain commonly generated hazardous wastes. To address this problem, Wisconsin adopted the federal Standards for Universal Waste Management into ch. NR 673, Wis. Adm. Code. That chapter provides reduced regulatory requirements for handlers and transporters of the following hazardous wastes it identifies as “universal wastes”: **batteries, pesticides, mercury thermostats, and lamps.**

EPA’s federal universal waste rule, 40 CFR Part 273, includes batteries, pesticides, mercury-containing equipment, and lamps. On August 5, 2005, EPA expanded its mercury thermostats category of universal waste to also include other mercury-containing equipment.

Wisconsin may identify additional hazardous wastes as universal wastes. The Department’s Waste and Materials Management Program intends to propose expanding ch. NR 673, Wis. Adm. Code, to include additional wastes and management standards for them. This memorandum identifies those additional wastes and their management standards.

The Department is preparing a proposal to add **other mercury-containing equipment besides thermostats** to ch. NR 673, Wis. Adm. Code, and has been using enforcement discretion to allow it to be managed as universal waste in the interim. The Department has also been using enforcement discretion to allow used **antifreeze** to be managed as universal waste, if it is destined for recycling.

Some of the reduced requirements for universal wastes are:

- A hazardous waste transportation license is not required to transport these wastes to a universal waste handler or destination facility located in Wisconsin.
- A solid waste transportation license is also not required to transport these wastes if they are destined for recycling, or if the transporter transports less than 20 tons per year of universal and non-hazardous waste.
- A hazardous waste manifest is not required to ship these wastes within Wisconsin.
- Small and large quantity hazardous waste generators do not need to report these wastes on their hazardous waste annual reports, or pay hazardous waste generator fees for them.
- Universal waste handlers may accumulate these wastes on-site for up to one year.

Some of the wastes listed in Table I may not consistently be hazardous. To eliminate the need to determine if the wastes are hazardous, the Department recommends managing them as universal wastes according to this memorandum.

Table I. Additional Wisconsin Universal Wastes Not in Ch. NR 673, Wis. Adm. Code

Waste	Description	Management Standards
Mercury-containing equipment –other than thermostats	Mercury-containing equipment means a device or part of a device (excluding batteries and lamps) that contains elemental mercury integral to its function. Examples of equipment that may meet this definition include, but are not limited to, thermometers, manometers, barometers, flow meters, switches, relays (e.g., gas safety), regulators, temperature and pressure gauges, and thermocouples.	Mercury-containing equipment (MCE) may be managed according to the federal universal waste standards, which apply to MCE, in Title 40 CFR Part 273. For a summary of those standards, see the Department publication “ <u>Management of Mercury Containing Equipment</u> ” (PUBL WA 1004).
Antifreeze destined for recycling	Antifreeze includes, but is not limited to, engine coolant mixtures containing ethylene glycol or propylene glycol and water.	Used antifreeze, which is destined for recycling, may be managed according to the Department publication “ <u>Managing Used Antifreeze</u> ” (PUBL WA 356).

Managing Wastes According to this Memorandum. There are reduced requirements for universal waste handlers and transporters, but not for destination facilities (facilities that treat, dispose of or recycle universal wastes at their facility). However, the handler standards for mercury-containing equipment conditionally allow handlers to remove mercury-containing ampules from the equipment and, for equipment that does not contain an ampule, remove the open original housing holding the mercury without being fully regulated as destination facilities. Destination facilities need to comply with the applicable hazardous waste management requirements in s. NR 661.06(3)(b) or chs. NR 664 to 670, Wis. Adm. Code, and the universal waste management standards in ss. NR 673.61 and 673.62, Wis. Adm. Code. Handlers and transporters of the wastes identified in Table I, who do not comply with the associated management standards referenced in the Table, are subject to full hazardous waste regulation in ch. 291, Stats., and chs. NR 660 to 670, Wis. Adm. Code.

If any hazardous substance, including a Table I waste or its contents, is discharged to the environment, the hazardous substance discharge notification and response requirements in ch. NR 706, Wis. Adm. Code, apply. More information on the Department’s Spills Program is available at <http://dnr.wi.gov/org/aw/rr/spills>

Beginning on this memorandum’s approved date, the Department will continue exercising discretion in enforcing the Wisconsin hazardous waste management requirements for handlers and transporters of the wastes listed in Table I, if they handle and transport the wastes according to the applicable management standards referenced in the Table.

Approved:

Dated:

Kate Cooper

11/14/08

Kate Cooper, Acting Director
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Disclaimer:

This guidance is in effect from the date this memorandum is approved until the Wisconsin universal waste rule is revised to add the Table I wastes and their management standards. The Department may modify or withdraw this memorandum, in whole or in part, at any time.

This document is intended solely as guidance, and does not include any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.