

Hearing Summary

Rule Package: Universal Waste Rules

Original filing date: September 11, 2017

Public comment start date: September 11, 2017

Public comment end date: October 17, 2017

Public hearing date: October 17, 2017

The rule package contains the following rules:

3745-50-45, 3745-51-09, 3745-54-01, 3745-65-01, 3745-270-01, 3745-273-01, 3745-273-09, 3745-273-13, 3745-273-14, 3745-273-15, 3745-273-32, 3745-273-33, 3745-273-34, 3745-273-35, 3745-273-39, 3745-273-60, 3745-273-62, 3745-273-89

Were there any participants in this public hearing beyond Ohio EPA staff or JCARR staff?

☒ Yes (However, no one provided testimony) ☐ No

Were there comments received during the public comment period outside of those presented at this hearing?

☒ Yes ☐ No

This hearing summary has been compiled to meet the requirements of Section 119.03 of the Revised Code.

This hearing summary includes this cover sheet and the following attachments:

1. **Attachment A** - A copy of the public notice for this hearing.
2. **Attachment B** - A copy of the sign-in sheet for this hearing.
3. **Attachment C** - A copy of the script read into the record to begin and end the hearing.
4. **Attachment D** - A copy of the response to comments.

Ohio EPA's response to comments document includes the comments received, who commented, the agency response to comments, and a statement of whether or not the rule was changed due to the comments.

Ohio EPA digitally records all public hearings for rules. The digital recordings are available upon request in a WAVE (.wav) file format. These recordings may be sent out for transcription if necessary.

**Public Notice – Request for Comment
Proposed Rulemaking
Universal Waste Management**

Notice is hereby given that the Ohio Environmental Protection Agency, Division of Environmental Response and Revitalization (DERR) proposes changes to the rules regarding “Universal Waste Management.” The purpose of the amendments is to designate hazardous non-empty aerosol containers, hazardous antifreeze and hazardous paint and paint-related wastes as universal wastes to promote the proper handling, recycling, or disposal of the hazardous waste. The director takes this action under the authority of Section 3734. and in accordance with Chapter 119. of the Ohio Revised Code.

This rulemaking has affected the following rules:

<u>Rule Number</u>	<u>Rule Title</u> * means this is the amended title	<u>Action</u>
3745-50-45	Special inclusions and exclusions for hazardous waste permits	amend, review
3745-51-09	Requirements for universal waste	amend, review
3745-54-01	Purpose, scope, and applicability of Chapters 3745-54 to 3745-57 and 3745-205 of the Administrative Code	amend, review
3745-65-01	Purpose, scope, and applicability of Chapters 3745-65 to 3745-69 and 3745-256 of the Administrative Code	amend, review
3745-270-01	Purpose, scope, and applicability- land disposal restrictions	amend, review
3745-273-01	Scope of management standards for universal waste	amend, review
3745-273-09	Definitions- management standards for universal waste	amend, review
3745-273-13	Waste management- standards for small quantity handlers of universal waste	rescind
3745-273-13	Waste management- standards for small quantity handlers of universal waste	new, review
3745-273-14	Labeling or marking- standards for small quantity handlers of universal waste *	amend, review
3745-273-15	Accumulation time limits- standards for small quantity handlers of universal waste	amend, review
3745-273-32	Notification- standards for large quantity handlers of universal waste	amend, review
3745-273-33	Waste management- standards for large quantity handlers of universal waste	rescind
3745-273-33	Waste management- standards for large quantity handlers of universal waste	new, review
3745-273-34	Labeling or marking- standards for large quantity handlers of universal waste *	amend, review

3745-273-35	Accumulation time limits- standards for large quantity handlers of universal waste	amend, review
3745-273-39	Tracking universal waste shipments- standards for large quantity handlers of universal waste	amend, review
3745-273-60	Applicability- standards for destination facilities	amend, review
3745-273-62	Tracking universal waste shipments- standards for destination facilities	amend, review
3745-273-89	Applicability- management standards for Ohio-specific universal wastes	new, review

The public comment period will run until October 17, 2017. A public hearing on this proposed rulemaking will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at Ohio EPA, 50 West Town Street, Columbus, Ohio in Conference Room A, on October 17, 2017 at 10:30am.

To facilitate the scheduling of oral presentations, persons intending to give testimony at the hearing should notify the Ohio EPA Public Interest Center, P.O. Box 1049, Columbus, Ohio 43216-1049, (614) 644-2160. Prior registration will ensure that registrants are heard ahead of those individuals who register at the hearing. Oral testimony may be limited to five minutes, depending on the number of persons testifying. All interested persons are entitled to attend or be represented and to present oral and/or written comments concerning the proposed rulemaking.

Written testimony should be sent to the attention of Karen Hale, Division of Environmental Response and Revitalization (DERR), P.O. Box 1049, Columbus Ohio 43216-1049. Written comments may also be submitted to the Hearing Officer at the public hearing. Written testimony will receive the same consideration as oral testimony. All testimony received at the hearing or by close of business on October 17, 2017 will be considered by Ohio EPA prior to final action on this rulemaking proposal. Written comments submitted after this date may be considered as time and circumstances permit.

To receive a copy of the proposed universal waste rules, please contact the DERR receptionist at (614) 644-2924. In addition, the proposed rules are available for review at any Ohio EPA district office and at the Ohio EPA central office. The proposed rules are also accessible on the DERR web page at <http://epa.ohio.gov/derr/derrrules/rcra.aspx#176615081-proposed-rules>.

You may submit your comments via regular mail or electronically to the following addresses.

E-mail: karen.hale@epa.ohio.gov

Mailing address: Karen Hale
Ohio Environmental Protection Agency, DERR
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049



SIGN-IN SHEET

Subject: Universal Waste Rules
County: Statewide Date: 10/17/17

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

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NAME: GREG FOUCHE E-MAIL: gfouche@jcmn.state.oh.us
MAILING ADDRESS: 77 S. High
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NAME: _____ E-MAIL: _____
MAILING ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: _____ FAX: _____

NAME: _____ E-MAIL: _____
MAILING ADDRESS: _____

DERR Universal Waste Rules Hearing

10/17/17

My name is Heather Lauer. I am with the Public Interest Center. I will be presiding over today's public hearing.

Thank you for taking time to attend this hearing before Ohio EPA. The purpose of the hearing today is to obtain comments from any interested person regarding Ohio EPA's proposed rules.

Ohio EPA Division of Environmental Response and Revitalization is proposing revisions to Ohio Administrative Code Chapter 3750-50, 51, 54, 35, 270 and 273. These rules cover the universal waste program regulations.

These rules have been filed with the Joint Committee on Agency Rule Review. Copies of the rules are available for public review at Ohio EPA's Columbus Office and on our website.

All interested persons are entitled to attend or be represented, and to present oral and/or written comments concerning the proposed rules. All written and oral comments received as part of the official record will be considered by the director of Ohio EPA before a final decision is made.

To be included in the official record, written comments must be received by Ohio EPA by the close of business, today, October 17, 2017. These comments may be filed with me today or emailed to karen.hale@epa.ohio.gov. All written comments submitted for the record receive the same consideration as oral testimony given today.

Written statements submitted after today may be considered as time and circumstances permit, but will not be part of the official record of the hearing.

If you wish to present oral testimony at this hearing today and have not already signed the registration sheet, please do so at this time. The sheet is available at the registration table. Persons will be called in the order in which they have registered.

There is no cross examination of speakers or of representatives of Ohio EPA in public hearings. Ohio EPA hearings such as this afford citizens the opportunity to provide comments on the official record. Therefore, we will not be able to answer questions during the hearing. However, members of the panel may ask clarifying questions of the person testifying to ensure the record is as complete and accurate as possible.

I will now read the names of those who have registered at this hearing and will give each person an opportunity to testify.

Is there anyone else who wishes to testify at this time?

Seeing no further requests for testimony, I remind you that written comments can be submitted through the close of business today.

Thank you for attending. The time is now and this hearing is adjourned.



Division Environmental Response and Revitalization Response to Comments

Rule: Universal Waste Rules

Agency Contact for this Package

Division Contact: Karen Hale, Division Environmental Response and Revitalization, (614) 644-2927, Karen.hale@epa.ohio.gov

Ohio EPA held a comment period on September 11, 2017 regarding revisions to the Universal Waste rules. This document summarizes the comments and questions received during the associated comment period, which ended on October 17, 2017.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

To help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General/Overall Concerns

Comment 1: Four commenters provided input regarding the proposed Ohio-specific universal waste rules. Two commenters provided positive support for Ohio's universal waste program and two commenters offered rule revisions or expressed implementation concerns. (American Coatings Association (ACA), Sevee & Maher Engineers (SME), The David Joseph Company (DJJ) and Graphic Arts Coalition (GAC), Total Compliance).

Response 1: Thank you for your comments.

3745-273-09 **Definitions**

Comment 2: The commenter requested that "ink" be defined as a "Paint" for the purposes of the universal waste rules. (GAC)

Response 2: 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 and therefore, can meet the distinguishing criteria of the definition of paint under the universal waste rules. No change was made to the definition of "Paint" in response to this comment.

Comment 3: **The commenter noted that the proposed rule has different sections for management requirements for small quantity handlers (SQH) and large quantity handlers (LQH). However, the rule is unclear as to whether a person that is a LQH for one type of waste must also follow the LQH criteria for all other universal wastes generated or received on-site, even if those volumes are small. (DDJ)**

Response 3: Whether a person is classified as a large quantity handler of universal waste (LQHUW) or a small quantity handler of universal waste (SQHUW) is dependent on the total amount of all universal wastes that are on the handler's site at any time. This provision appears in the definitions of small and large quantity handlers of universal waste in OAC rule 3745-273-09. Also, once a handler accumulates more than 5000 kg of universal waste, the handler must comply with the LQHUW rules until the end of the calendar year. No rule change was made in response to this comment.

3745-273-13(E) Aerosol containers: Standards for Small and Large Handlers of Universal
3745-273-33(E) Waste

Comment 4: **Proposed rules OAC 3745-273-13(E)(4)(e) and 3745-273-33(E)(4)(e) are unclear and appear contrary to the concept of managing the waste collected from aerosol cans as universal waste. (DJJ)**

Response 4: The purpose of the universal waste rules is to streamline the management requirements for certain hazardous wastes to encourage and promote the proper management, recycling and disposal of the waste stream.

It is important to keep in mind that universal wastes are still hazardous wastes but the wastes are subject to less burdensome management requirements under the universal waste rules. The universal waste rules only apply to the intact aerosol container with the intent to promote the proper recycling and disposal of the container and the contents. Once the contents are removed from the container the definition of aerosol container no longer applies to the collected contents and the handler must determine if the collected contents meet the definition of a hazardous waste.

Non-empty aerosol containers often pose a regulatory burden for generators due to: the difficulty in determining the proper classification of the contents of each aerosol can, the relatively low volumes of aerosol cans produced by most generators, and the limited options for proper disposal. As a result, non-empty aerosol cans are inappropriately disposed (e.g., put in the regular trash). By classifying non-empty aerosol containers as universal waste, more aerosol containers will be properly managed and disposed. No rule change was made in response to this comment.

Comment 5: **If a company only punctures aerosol containers 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?**

Response 5: If the collected contents from aerosol containers consists solely of paint then the collected contents is eligible to be classified as a universal waste paint. The rules were modified in response to this comment to clarify this point.

3745-273-13(F) Antifreeze: Standards for Small and Large Handlers of Universal
3745-273-33(F) Waste

Comment 6: **Do the universal wastes rules applicable to antifreeze prohibit the commingling of antifreeze with used oil? Many auto recyclers drain vehicles before crushing the vehicles and commingle the drained antifreeze and used oil. They then use gravity separation to separate the used oil and antifreeze for further recycling or reuse. (DJJ)**

Response 6: Yes, universal waste antifreeze commingled, after generation, with used oil is no longer 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 3745-279-10(B).

If the antifreeze/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. If the mixture is defined as a used oil, see OAC rule 3745-279-10, the separation activity must be performed by a used oil processor, see OAC rules 3745-279-50 to 3745-279-59.

A clarifying comment was added to OAC rule 3745-273-89 to inform entities that an antifreeze/used oil mixture may be defined as a used oil or a hazardous waste.

3745-273-60 (D) Applicability- standards for destination facilities

Comment 7: **This rule appears to require all destinations facilities for universal wastes to have hazardous waste permits. This will greatly impact most used oil collection companies that pick up used oil and antifreeze for recycling by requiring the used oil collection companies to be permitted hazardous waste facilities. (DJJ)**

Response 7: A used oil transporter that transports commingled universal antifreeze and used oil will need to determine if the mixture meets the definition of a hazardous waste or a used oil, see OAC 3745-279-10. If the mixture is a hazardous waste then the transporter must follow the hazardous transporter rules, OAC Chapter 3745-53.

An antifreeze/used oil mixture that is defined as used oil must be transported according to the used oil transporter rules 3745-279-40 to 3745-279-47. The used oil mixture can be delivered to either a used oil transfer facility, a used oil processor or a permitted hazardous waste facility.

If the used oil and antifreeze are not commingled and in separate containers or tanks and the antifreeze is being managed under the universal waste rules, the transporter will need to comply with both the universal waste and used oil transporter rules. The used oil will need to be delivered to a used oil transfer facility, a used oil processor, a used oil burner or a permitted hazardous waste facility. The universal waste antifreeze will need to be delivered to a universal waste handler or a permitted hazardous waste facility. A facility can be both a used oil facility and a universal waste handler. No rule change was made in response to this comment.

End of Response to Comments