

CORRESPONDENCE/MEMORANDUM

DATE: 1/21/2020

TO: Bart Sponseller, EM Deputy Division Administrator;
James Bridges, DNR Legal Services Attorney

FROM: Andrea Keller, DNR WA Hazardous Waste Prevention and Management Section Chief

SUBJECT: **UPDATED** Enforcement Discretion
Management of Wisconsin-specific Universal Wastes

Introduction

In Wisconsin, hazardous waste management is regulated under [ch. 291 Wis. Stats.](#), and chs. [NR 660 to 670](#), Wis. Adm. Code. These requirements were developed to ensure that hazardous waste is managed to protect human health and the environment. To encourage proper management and recycling of certain commonly generated hazardous wastes, Wisconsin adopted the federal standards for universal waste management into [ch. NR 673](#), Wis. Adm. Code, which provide reduced regulatory requirements for handlers and transporters of certain hazardous wastes if managed as “universal wastes.” These include batteries, pesticides, mercury-containing equipment, and lamps.

An enforcement discretion memo, dated November 11, 2008, was developed to allow the management of mercury thermostats and used antifreeze as universal wastes. Regulations for the management of mercury-containing equipment as a universal waste have since been adopted in [NR 673.04](#), Wis. Adm. Code, to remain consistent with federal universal waste regulations. This updated enforcement discretion memo (guidance document) addresses the continuation of providing reduced regulatory requirements for used antifreeze when destined for recycling. ‘Guidance documents’ are defined in s. 227.01(3m)(a)2. to include formal communications from agencies that ‘provide guidance with respect to how the agency is likely to apply a statute or rule enforced or administered by the agency, if that guidance or advice is likely to apply to a class of persons similarly affected.’ The purpose of this document is to provide a consistent interpretation of the NR 600 series with respect to the handling of used antifreeze destined for recycling, and to allow for this waste stream to be managed as a Wisconsin-specific universal waste.

Background

Antifreeze includes, but is not limited to, engine coolant mixtures containing ethylene glycol or propylene glycol and water. Contaminants commonly found in used antifreeze include lead, chromium, barium, benzene, tetrachloroethene and trichloroethene. As used antifreeze has a potential to be hazardous, a hazardous/non-hazardous waste determination (TCLP analysis) by a certified laboratory is required. To encourage the safe reuse and management of used antifreeze destined for recycling, the department developed this enforcement discretion to allow this specific waste stream to be managed under universal waste requirements.

Used antifreeze not destined for recycling must be managed according to solid and hazardous waste standards, including but not limited to analytical testing/waste determination requirements.

Regulatory Relief

The reduced requirements outlined in this memorandum are for “universal waste antifreeze” generators, handlers and transporters (collectively referred to as “handlers”). Universal waste handlers include

generators of used antifreeze and the owners or operators of facilities that receive used antifreeze from other handlers ([NR 673.09](#)). Handlers may choose to recycle used antifreeze on-site or send it to other handlers, a destination facility, or a foreign destination for off-site recycling. Destination facilities that recycle used antifreeze 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.

Required Universal Waste Management Standards

All handlers of used antifreeze destined for recycling must meet the following conditions, which are considered equivalent to universal waste management and universal waste handler requirements under ch. NR 673, Wis. Adm. Code:

Train: Employees who handle/manage universal waste require training, and the training should be documented. Handlers should ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.

Containerize and Keep Closed: All used antifreeze must be kept in structurally sound containers that will not leak or spill under normal conditions and are compatible with the waste. Containers must be kept closed, except when used antifreeze is actively being added or removed from the container.

Label: All containers must be correctly labeled as “universal waste antifreeze,” “waste antifreeze,” or “used antifreeze.”

Date: Handlers may demonstrate the length of time the used antifreeze has accumulated on-site by marking or labeling containers with the accumulation start date or by maintaining an inventory system that identifies the earliest date the used antifreeze was added to a container or was received from off-site.

Recycle: Used antifreeze must be recycled on- or off-site within one year of the accumulate start date (ex. date on container). Handlers may only accumulate used antifreeze for longer than one year if it is solely for the purpose of accumulating sufficient quantities necessary to facilitate proper recycling methods.

Reduced requirements for universal wastes, equivalent to ch. NR 673, Wis. Adm. Code, that will apply to used antifreeze destined for recycling are as follows:

- 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.
- A hazardous waste manifest is not required to ship these wastes within Wisconsin.
- Universal wastes do not count towards monthly hazardous waste generation.
- Universal waste handlers may accumulate these wastes on-site for up to one year.

Used antifreeze not managed in accordance with the universal waste standards outlined in this memorandum may be subject to all applicable solid and hazardous waste requirements in ch. 291, Stats., and chs. NR 500 to 544 and NR 660 to 679, Wis. Adm. Code. If used antifreeze is not recycled, either a hazardous waste transporter license will be required, or a solid waste transporter licenses may be required based on the amount of solid waste transported in a given year. Additionally, a waste determination is required to ascertain whether the used antifreeze is hazardous or non-hazardous waste.

Spill Response and Notification: Immediately contain and clean up all antifreeze releases. Any residues resulting from cleanup of antifreeze spills or leaks that exhibit a characteristic of hazardous waste should be managed in accordance with applicable requirements of chs. NR 660 to 670. Used absorbent materials from the spill should be stored in a leak-proof, labeled container. Contact your recycling vendor for further instructions on how to manage and dispose of the materials.

If any hazardous substance, including used antifreeze outlined in this memorandum, is discharged to the environment, the hazardous substance discharge notification and response requirements in ch. NR 706, Wis. Adm. Code, apply. Universal waste handlers are also required to report spills of hazardous substances to the environment to the Department of Natural Resources using the 24-hour toll free hotline number: 1-800-943-0003. More information on the Department's Spills Program is available at <https://dnr.wi.gov/topic/Spills/>

Beginning on this memorandum's approved date, the department will continue exercising discretion in the management of used antifreeze destined for recycling when it is managed according to the universal waste standards outlined in this memorandum.

DNR contact information:

For more information on this subject, including other publications, staff contacts and administrative codes and statutes, search by topic at dnr.wi.gov, or call your DNR regional office and ask for your [hazardous waste specialist](#).

Mailing address: DNR Waste & Materials Management Program, PO Box 7921 Madison, WI 53707

Email: DNRWasteMaterials@Wisconsin.gov

***Disclaimer:** This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. 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.*

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