Managing Paint and Paint-Related Waste Under the Universal Waste Rule

This document contains only brief, general explanations of a few main points in the rules on managing paint and paint-related wastes as Universal Waste; it does not take the place of any laws or regulations.

Terms Used

In this guidance document, the pronouns "I," "my," or "you" refer to individuals or companies covered by the regulations being explained. "We" refers to the Texas Commission on Environmental Quality (TCEQ) in general or, in particular, to the Waste Permits Division or its staff. To avoid repeating words, we use the abbreviation PPRW for "paint and paint-related waste" and UW for Universal Waste. For other abbreviations, see Abbreviations and Terms.

Overview of the UW Rule and PPRW

What is the UW Rule?

The UW Rule offers alternatives to the otherwise applicable regulations for managing the following types of waste:

- Batteries as described in Title 40, Code of Federal Regulations, Section 273.2 (40 CFR 273.2)
- Pesticides as described in 40 CFR 273.3
- Mercury-containing equipment as described in 40 CFR 273.4
- Lamps as described in 40 CFR 273.5
- PPRW as described in 30 TAC 335.262(b)

What is PPRW under the UW Rule?

If you have a “hazardous waste” [defined in 30 TAC 335.1(78), determined via 30 TAC 335.504] and it meets the definition of “paint” or “paint-related waste” in 30 TAC 335.262(b), you can manage this waste as a UW.

- Paint - a pigmented or unpigmented mixture of binder and suitable liquid which forms a closely adherent coating when spread on a surface.
• Paint related waste -
  ○ material contaminated with paint that results from the packaging of paint, wholesale and retail operations, paint manufacturing, and paint application or removal activities.
  ○ material derived from the reclamation of paint-related wastes that being recycled in a manner other than 1) burning for energy recovery or 2) used in a manner constituting disposal.

What PPRWs qualify for managing as UW?

The following hazardous wastes qualify as PPRW:

• Used or unused pigmented paints
• Used or unused unpigmented paints (e.g., used or unused clear lacquer)
• Spent solvents used in painting that are contaminated with paint (for example, combinations of thinner and paint, lacquer, or varnish)
• Paint-contaminated personal protective equipment, rags, gloves, brushes, rollers, and debris resulting from painting operations
• Coating waste paint, overspray, overrun paints, paint filters, paint booth stripping materials, paint sludges from water wash curtains
• Cleanup residues from spills of paint (this excludes cleanup residues from a spill of PPRW being managed as UW; in this case, verify its classification as hazardous waste and proceed with any applicable hazardous waste regulations required for this spill)
• Residual paint substances associated with surface preparation; this includes paint chips, paint scrapings, sandblasting grit, cleaning liquids, or discarded paint application
• Cleanup residues from painting and paint removal activities
• Any mixture of pigmented or unpigmented binders and suitable liquid to form closely adherent coating
• Inks when used like paint (brushed or rolled) onto a surface with a tool
• Any material which results from painting activities

What doesn’t qualify as PPRW under the UW Rule?

The following hazardous wastes do not qualify as PPRW:

• Treatment residuals (e.g., distillation bottoms, wastewater treatment waste, filter cake, or incinerator ash)
• Paint ingredients (e.g., precursors to paint)
• Solvents not used in paint or painting activities
• PPRW generated and disposed of by a household
• Non-hazardous paint
When was PPRW brought under the UW Rule?

TCEQ published the final rule on October 22, 1999 and made it effective as of October 24, 1999. On June 11, 2020, the amendment to the PPRW rule became effective which:

- Added unpigmented paint wastes to the definition of “paint,” allowing this type of hazardous waste to be managed as UW.
- Defined “paint-related waste.”

Where can I find the UW rule?

Federal rules are found in 40 CFR 273. Texas rules are found in 30 TAC 335.261 and 335.262.

How the UW Rule Applies to Businesses and Individuals

Why is the UW rule an advantage to me?

When shipping or disposing of PPRW as UW in Texas:

- No manifest is required when transporting PPRW.
- No notification to TCEQ is required; however, notice to EPA is required for a Large Quantity Handler of PPRW (see Notification and Reporting section below).
- You do not have to use a registered transporter; however, USDOT regulation for the transportation of UW will still apply.
- The waste does not count toward your hazardous waste generator status (i.e., conditionally exempt small quantity generator, small quantity generator, or large quantity generator).
- The waste is exempt from year-end fees.
- The waste may be accumulated for up to one year from the start of generation.

What kinds of businesses or individuals can use the UW rule?

The UW rule can be used by any individual or business that generates, accumulates, treats, stores, disposes, recycles, or otherwise manages any of the types of UW (see What is the UW Rule? section above).
I generate PPRW that could be classified as UW, but I would rather manage it as fully regulated hazardous waste. May I do that?

Yes. The decision to handle PPRW as fully regulated hazardous waste is up to the generator.

Categories of UW Handlers and Hazardous Waste Generators

What are the categories of UW handlers?

Handlers of UW are categorized as:

- **Small Quantity Handler** — you accumulate less than 5,000 kg of universal waste at any time.
- **Large Quantity Handler** — you accumulate 5,000 kg or more of universal waste at any time.

Are UW handler categories different from the categories for hazardous waste generators?

Yes, the UW handler categories are independent of the categories used to describe hazardous waste generators. Generators of hazardous waste are categorized as:

- Large Quantity Generators (LQGs),
- Small Quantity Generators (SQGs), and
- Conditionally Exempt Small Quantity Generators (CESQGs).

See the webpage [Industrial and Hazardous Waste: Compliance Resources](#) to learn more about categories for hazardous waste generators.

How do the UW rules apply to CESQGs?

A CESQG may choose to manage its PPRW as UW.

Notification and Reporting

Do I have to notify TCEQ about PPRWs if managed as UW?

No. TCEQ's rules in 30 TAC 335.261 (Universal Waste) do not refer to 30 TAC 335.6, which contains general notification requirements for industrial solid waste activities.
Do I use the 8-digit Texas waste code when I manage PPRWs as UW?

No. Once you decide to manage PPRW as UW, the 8-digit Texas waste code is no longer required.

Do I have to notify the EPA if I start managing PPRW as UW?

If managing PPRW as UW will cause your total UW to equal or exceed 5,000 kg (i.e., you will become a Large Quantity Handler), submit 8700-12 notification form to TCEQ. Small Quantity Handlers do not need to submit this form. This is a one-time submission to receive an EPA identification number.

Does PPRW managed as UW count toward my hazardous waste generator status?

No. 40 CFR 261.5(c)(6) and the Federal Register both state that you should not count any UW towards your monthly quantity determination (as a large quantity generator, small quantity generator, or conditionally exempt small quantity generator). 60 Fed. Reg. 25502 (May 11, 1995).

Storing and Transporting UW

How long can a receiving facility accumulate PPRW that is managed as UW before shipping it to another UW handler?

Each receiving facility can accumulate the waste for an entire year before sending it off to another handler or destination facility. This time limit can be extended if the handler can prove that the extension is necessary to facilitate proper recovery, treatment, or disposal. See 40 CFR 273.15(c) and 273.35(c).

What if PPRW that is generated in Texas is going outside the state for recycling or disposal?

PPRW managed as UW can only be sent off-site to another universal waste handler meeting the standards in 40 CFR 273.10 - 273.40, a destination facility meeting the standards in 40 CFR 273.60 - 273.62, or a foreign destination. So far, Texas and Ohio are the only states that allow the management of PPRW as UW. Therefore, when shipments of PPRW leave Texas, they would have to comply fully with all hazardous waste requirements (i.e., rules on transportation, manifests, and interim storage).
What is a destination facility?

It is a facility that treats, disposes, or recycles a particular category of UW. Destination facilities must comply with all current applicable requirements for hazardous waste management facilities.

Is a manifest required for PPRW that is managed as UW and goes outside of Texas for recycling or disposal?

For portions of the trip through Texas, you do not need a transporter with an EPA identification number, and you do not need a manifest. However, for the portion of the trip through states that do not consider the waste to be a UW, a manifest is required, and the waste must be moved by a registered transporter in compliance with 40 CFR 263.

Within Texas, do I need to use a registered transporter to haul my PPRW that I manage as UW?

No. You may use a common carrier for in-state transport of your PPRW managed as UW; however, this waste is not exempt from USDOT standards in 49 CFR 172 that apply to the shipment of hazardous materials.

What are the labeling requirements for storing and shipping PPRW that is managed as UW?

The words "Universal Waste - Paint and Paint Related Wastes" must be marked clearly on each container as described in 30 TAC 335.262(c)(2)(F). In addition, this description must also be added to the USDOT shipping description per 49 CFR 172.

How do I manage a spill of PPRW that I handle as UW?

If you are responsible for managing waste from a spill or release, you must determine whether the resulting waste is hazardous according to 40 CFR 261. If hazardous, it must be managed under all applicable requirements found in 40 CFR 260 - 272. If the resulting waste is non-hazardous, then it must be managed under all applicable State and local requirements.
What regulations cover recycling facilities receiving PPRW that are managed as UW?

Recycling facilities are excluded from the definition of "UW handlers." See 40 CFR 273.9. Under those requirements, storage before recycling is regulated. See 40 CFR 261.6(c)(1).

What regulations apply to a mixture of solid waste with PPRW that is managed as UW?

The UW rules apply only to wastes meeting the criteria for classification as UW. They do not apply to mixtures of UW and solid waste. Intentional mixing of universal waste with solid waste to avoid classification as hazardous waste is not allowed. A handler who mixes UW and solid waste to avoid regulation is treating that waste, which would make him or her subject to the regular hazardous waste regulations.

Abbreviations and Terms

CESQG—Conditionally Exempt Small Quantity Generator
CFR—Code of Federal Regulations
PPRW(s)—Paint and Paint Related Waste(s)
TAC—Texas Administrative Code
USDOT—U.S. Department of Transportation
UW—Universal Waste

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