

Chapter NR 690

STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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Subchapter I—General

NR 690.01 Purpose. The purpose of this chapter is to provide streamlined hazardous waste management regulations governing the collection and management of certain widely generated wastes, known as universal wastes. This chapter is intended to facilitate the environmentally sound collection and increase the proper recycling or treatment of these wastes, by removing impediments to collection and recycling campaigns for these wastes created by the regulation of them as hazardous wastes. By easing the regulatory burden this chapter is intended to facilitate programs developed to reduce the quantity of these wastes going to municipal solid waste landfills or combustors. It will also assure that the wastes subject to this system will go to appropriate treatment or recycling facilities pursuant to the full hazardous waste regulatory controls.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.02 Applicability. This chapter applies to universal waste handlers and universal waste transporters handling the wastes listed in this section.

- (1) Batteries as described in s. NR 690.05.
- (2) Pesticides as described in s. NR 690.06.
- (3) Thermostats as described in s. NR 690.07.

Note: This chapter does not apply to household waste which is excluded from regulation as hazardous waste by s. NR 605.05 (1) (a).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.03 Definitions. In this chapter:

Note: In addition to the definitions in this section, the definitions in s. NR 600.03 apply to this chapter.

(1) "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode and an electrolyte, plus such electrical and mechanical connections as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(2) "Destination facility" means a facility that treats, disposes of or recycles a particular category of universal waste. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

Note: For purposes of this subsection, "treats, disposes of or recycles" does not include the management activities described in ss. NR 690.13 (1) and (3) and 690.33 (1) and (3).

(3) "FIFRA" means the federal insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y.

(4) "Generator" means any person, by generation site, whose act or process produces a hazardous waste identified or listed in ch. NR 605 or whose act first causes a hazardous waste to become subject to regulation under chs. NR 600 to 690.

(5) "Large quantity handler of universal waste" means a universal waste handler who accumulates 5,000 kilograms or more total of universal waste, calculated collectively, at any time.

(6) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access, are also considered on-site property.

(7) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or intended for use as a plant regulator, defoliant or desiccant, other than any article that is any of the following:

(a) A new animal drug under 21 USC 321 (w).

(b) An animal drug that has been determined by regulation of the secretary of the U.S. department of health and human services not to be a new animal drug.

(c) An animal feed under 21 USC 321 (x) that bears or contains any substances described by par. (a) or (b).

(8) "Small quantity handler of universal waste" means a universal waste handler who does not accumulate as much as 5,000

kilograms total of universal waste, including batteries, pesticides or thermostats, calculated collectively, at any time.

(9) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices.

Note: Sections NR 690.13 (3) (b) and 690.33 (3) (b) specify requirements for the removal of mercury-containing ampules from thermostats.

(10) "Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this chapter:

- (a) Batteries as described in s. NR 690.05.
- (b) Pesticides as described in s. NR 690.06.
- (c) Thermostats as described in s. NR 690.07.

(11) "Universal waste handler" means a generator of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility or to a foreign destination. Universal waste handler does not mean a person who treats, disposes of or recycles universal waste; or a person engaged in the off-site transportation of universal waste by air, rail, highway or water, including a universal waste transfer facility.

Note: For purposes of this subsection, "treats, disposes of or recycles universal waste" does not include the management activities described in ss. NR 690.13 (1) and (3) and 690.33 (1) and (3).

(12) "Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for 10 days or less.

(13) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway or water.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.04 Scope. (1) This chapter establishes requirements for managing all of the following:

- (a) Batteries as described in s. NR 690.05.
- (b) Pesticides as described in s. NR 690.06.
- (c) Thermostats as described in s. NR 690.07.

(2) This chapter provides an alternative set of management standards in lieu of regulation under chs. NR 600 to 685.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.05 Applicability - batteries. (1) BATTERIES COVERED UNDER THIS CHAPTER. (a) The requirements of this chapter apply to persons managing batteries, as described in s. NR 690.03, except those listed in sub. (2).

(b) Spent lead-acid batteries which are not managed under s. NR 625.12 are subject to management under this chapter.

(2) BATTERIES NOT COVERED UNDER THIS CHAPTER. The requirements of this chapter do not apply to persons managing the following batteries:

- (a) Spent lead-acid batteries that are managed under s. NR 625.12.
- (b) Batteries that are not yet wastes under ch. NR 605, including those that do not meet the criteria for waste generation in sub. (3).
- (c) Batteries that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in s. NR 605.08.

(3) GENERATION OF WASTE BATTERIES. (a) A used battery becomes a waste on the date it is discarded.

Note: A battery is considered to have been discarded when it is sent for reclamation.

(b) An unused battery becomes a waste on the date the handler decides to discard it.

NR 690.06 Applicability - pesticides. (1) PESTICIDES COVERED UNDER THIS CHAPTER. The requirements of this chapter apply to persons managing pesticides meeting the following conditions, except those listed in sub. (2).

(a) Recalled pesticides that are:

1. Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA Section 19 (b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

Note: The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is found at 7 USC 136 to 136y.

2. Stocks of a suspended or canceled pesticide or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

(b) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

(2) PESTICIDES NOT COVERED UNDER THIS CHAPTER. This chapter does not apply to persons managing the following pesticides:

(a) Recalled pesticides described in sub. (1) (a) and unused pesticide products described in sub. (1) (b) that are managed by farmers in compliance with s. NR 610.04 (2) and (3).

Note: Section NR 610.04 (2) and (3) addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with s. NR 605.06 (5).

(b) Pesticides not meeting the conditions in sub. (1). These pesticides shall be managed in compliance with the hazardous waste regulations in chs. NR 600 to 685.

(c) Pesticides that are not wastes under ch. NR 605, including those that do not meet the criteria for waste generation in sub. (3) or those that are not wastes as described in sub. (4).

(d) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in s. NR 605.09, or if it exhibits one or more of the characteristics identified in s. NR 605.08.

Note: Certain waste pesticides generated by home or residential use may be exempt from regulation under s. NR 605.05 (1) (b). Refer to that section for additional information.

(3) WHEN A PESTICIDE BECOMES A WASTE. (a) A recalled pesticide described in sub. (1) (a) becomes a waste on the first date on which both of the following conditions apply:

- 1. The generator of the recalled pesticide agrees to participate in the recall.
- 2. The person conducting the recall decides to discard the pesticide.

Note: An example of deciding to discard the pesticide would include burning the pesticide for energy recovery.

(b) An unused pesticide product described in sub. (1) (b) becomes a waste on the date the generator decides to discard it.

(4) PESTICIDES THAT ARE NOT WASTES. The following pesticides are not wastes:

(a) Recalled pesticides described in sub. (1) (a), provided that the person conducting the recall:

1. Has not made a decision to discard the pesticide. Until a decision to discard the pesticide is made, the pesticide does not meet the definition of "solid waste" under s. NR 600.03 and thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this chapter. This pesticide remains subject to the requirements of FIFRA.

2. Has made a decision to use a management option that does not cause the pesticide to meet the definition of "solid waste" under s. NR 600.03. Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements, including this chapter. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

Note: Examples of management options that do not cause the pesticide to meet the definition of "solid waste" are use, other than use constituting disposal, reuse, other than burning for energy recovery, and reclamation.

(b) Unused pesticide products described in sub. (1) (b), if the generator of the unused pesticide product has not decided to dis-

card them. These pesticides remain subject to the requirements of FIFRA.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.07 Applicability – mercury thermostats.

(1) THERMOSTATS COVERED UNDER CH. NR 690. The requirements of this chapter apply to persons managing thermostats except those listed in sub. (2).

(2) THERMOSTATS NOT COVERED UNDER CH. NR 690. The requirements of this chapter do not apply to persons managing the following thermostats:

(a) Thermostats that are not yet wastes under ch. NR 605. Subsection (3) describes when thermostats become wastes.

(b) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in s. NR 605.08.

(3) GENERATION OF WASTE THERMOSTATS. (a) A used thermostat becomes a waste on the date it is discarded.

Note: A used thermostat is considered to be discarded when it is sent for reclamation.

(b) An unused thermostat becomes a waste on the date the handler decides to discard it.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.08 Applicability – household and very small quantity generator waste. (1) Persons managing the wastes described in this section may, at their option, manage them under the requirements of this chapter:

(a) Household wastes that are exempt under s. NR 605.05 (1) (a) and are also of the same type as the universal wastes defined at s. NR 690.03.

(b) Very small quantity generator wastes that are exempt from full regulation under s. NR 610.07 and are also of the same type as the universal wastes defined at NR 690.03.

(2) Persons who commingle the wastes described in sub. (1) (a) and (b) together with universal waste regulated under this chapter shall manage the commingled waste under the requirements of this chapter.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter II—Standards for Small Quantity Handlers of Universal Waste

NR 690.10 Applicability. This subchapter applies to small quantity handlers of universal waste.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.11 Prohibitions. A small quantity handler of universal waste is prohibited from doing either of the following:

(1) Disposing of universal waste.

(2) Diluting or treating universal waste, except by responding to releases as provided in s. NR 690.17, or by managing specific wastes as provided in s. NR 690.13.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.12 Notification. (1) Except as provided in s. NR 690.32 (1) (a) and (b), a handler of universal waste shall send written notification of universal waste management to the department, and receive an EPA identification number, before meeting or exceeding the 5,000 kilogram storage limit.

(2) Except as provided in sub. (1), a small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.13 Waste management. (1) UNIVERSAL WASTE BATTERIES. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(a) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A small quantity handler of universal waste may conduct any of the activities listed in this paragraph as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

1. Sort batteries by type.
2. Mix battery types in one container.
3. Discharge batteries so as to remove the electric charge.
4. Regenerate used batteries.
5. Disassemble batteries or battery packs into individual batteries or cells.
6. Remove batteries from consumer products.
7. Remove electrolyte from batteries.

(c) A small quantity handler of universal waste who removes electrolyte from batteries or who generates other solid waste, such as battery pack materials or discarded consumer products, as a result of the activities listed in par. (a), shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in s. NR 605.08.

1. If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to chs. NR 610 and 615.

2. If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(2) UNIVERSAL WASTE PESTICIDES. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(a) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A container that does not meet the requirements of par. (a), provided that the unacceptable container is overpacked in a container that does meet the requirements of par. (a).

(c) A tank that meets the requirements of ch. NR 645, except for ss. NR 645.15 and 645.17 (1) (a) 3.

(d) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(3) UNIVERSAL WASTE THERMOSTATS. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(a) A small quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat, and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler does all of the following:

1. Removes the ampules in a manner designed to prevent breakage of the ampules.

2. Removes ampules only over or in a containment device, such as a tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage.

3. Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of ss. NR 610.08 (1) (o) and 615.05 (4).

4. Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of ss. NR 610.08 (1) (o) and 615.05 (4).

5. Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury.

6. Ensures that employes removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers.

7. Stores removed ampules in closed, non-leaking containers that are in good condition.

8. Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling and transportation.

(c) 1. A small quantity handler of universal waste who removes mercury-containing ampules from thermostats shall determine whether any of the following exhibit a characteristic of hazardous waste identified in s. NR 605.08:

a. Mercury or clean-up residues resulting from spills or leaks.

b. Other solid waste generated as a result of the removal of mercury-containing ampules, such as remaining thermostat units.

2. If the mercury, residues or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the mercury, residues or other waste and shall manage it subject to chs. NR 610 and 615.

3. If the mercury, residues or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.14 Labeling and marking. A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified in this section.

(1) A small quantity handler of batteries shall label or mark clearly each battery or each container in which the batteries are contained. The handler shall label or mark the batteries or containers with any one of the following phrases: "Universal Waste - Batteries," "Waste Batteries" or "Used Batteries."

(2) A container or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in s. NR 690.06 (1) (a) are contained shall be labeled or marked clearly with both of the following:

(a) The label that was on or accompanied the product as sold or distributed.

(b) The words "Universal Waste - Pesticides" or "Waste - Pesticides."

(3) A container, tank or transport vehicle or vessel in which unused pesticide products as described in s. NR 690.06 (1) (b) are contained shall be labeled or marked clearly with one of the following using the words "Universal Waste - Pesticides" or "Waste - Pesticides":

(a) The label that was on the product when purchased, if still legible.

(b) If using the labels described in par. (a) is not feasible, the appropriate label as required under U.S. department of transportation regulations found at 49 CFR part 172.

(c) If using the labels described in pars. (a) and (b) is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state.

(4) A small quantity handler of thermostats shall label or mark clearly each thermostat or each container in which the thermostats are contained. The handler shall label or mark the thermostats or containers with any one of the following phrases: "Universal Waste - Mercury Thermostats," "Waste Mercury Thermostats" or "Used Mercury Thermostats."

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.15 Accumulation time limits. (1) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of sub. (2) are met.

(2) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal.

(3) A small quantity handler of universal waste who accumulates universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by doing any one of the following:

(a) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received.

(b) Marking or labeling each battery, thermostat or other individual item of universal waste with the date it became a waste or was received.

(c) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received.

(d) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received.

(e) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received.

(f) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.16 Employee training. A small quantity handler of universal waste shall inform all employes who handle or have responsibility for managing universal waste. The information shall describe proper handling and emergency procedures appropriate to the type or types of universal waste handled at the facility.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.17 Response to releases. (1) A small quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes.

(2) A small quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the material resulting from the

release, and shall manage it in compliance with chs. NR 610 and 615.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.18 Off-site shipments. (1) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility or a foreign destination.

(2) If a small quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of subch. IV while transporting the universal waste.

(3) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR parts 171 to 180, a small quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. department of transportation regulations found at 49 CFR parts 172 to 180.

(4) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

(5) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall do one of the following:

(a) Receive the waste back when notified that the shipment has been rejected.

(b) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(6) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he shall contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler shall do one of the following:

(a) Send the shipment back to the originating handler.

(b) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(7) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the department of the illegal shipment, and provide the name, address and phone number of the originating shipper. The department will provide instructions for managing the hazardous waste.

(8) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.19 Tracking universal waste shipments. A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.20 Exports. A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in s. NR 615.14 (1) shall do all of the following:

Note: A small quantity handler of universal waste who sends universal waste to those OECD countries specified in s. NR 615.14 (1) is subject to the requirements of 40 CFR part 262, subpart H.

(1) Comply with the requirements applicable to a primary exporter in s. NR 615.12.

(2) Export the universal waste only upon consent of the receiving country and in conformance with the EPA acknowledgement of consent.

(3) Provide a copy of the EPA acknowledgement of consent for the shipment to the transporter transporting the shipment for export.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter III—Standards for Large Quantity Handlers of Universal Waste

NR 690.30 Applicability. This subchapter applies to large quantity handlers of universal waste. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

Note: A handler of universal waste is required to send written notification of universal waste management to the department, and receive an EPA identification number, before meeting or exceeding the 5,000 kilogram storage limit. Please see s. NR 690.12 (1).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.31 Prohibitions. A large quantity handler of universal waste is prohibited from doing either of the following:

(1) Disposing of universal waste.

(2) Diluting or treating universal waste, except by responding to releases as provided in s. NR 690.37 or by managing specific wastes as provided in s. NR 690.33.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.32 Notification. (1) (a) A large quantity handler of universal waste who has already notified the department of its hazardous waste management activities and has received an EPA identification number is not required to renotify under this section.

(b) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in s. NR 690.06 (1) (a) and who has sent notification to the department as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

(2) This notification shall include all of the following:

(a) The universal waste handler's name and mailing address.

(b) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities.

(c) The address or physical location of the universal waste management activities.

(d) A list of all of the types of universal waste managed by the handler, such as batteries, pesticides and thermostats.

(e) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste, such as batteries, pesticides, thermostats, the handler is accumulating above this quantity.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.33 Waste management. (1) **UNIVERSAL WASTE BATTERIES.** A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment.

(a) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual

battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

1. Sorting batteries by type.
2. Mixing battery types in one container.
3. Discharging batteries so as to remove the electric charge.
4. Regenerating used batteries.
5. Disassembling batteries or battery packs into individual batteries or cells.
6. Removing batteries from consumer products.
7. Removing electrolyte from batteries.

(c) A large quantity handler of universal waste who removes electrolyte from batteries or who generates other solid waste, such as battery pack materials or discarded consumer products, as a result of the activities in par. (b), shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in s. NR 605.08.

1. If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to chs. NR 610 and 615.

2. If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(2) **UNIVERSAL WASTE PESTICIDES.** A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(a) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A container that does not meet the requirements of par. (a), provided that the unacceptable container is overpacked in a container that does meet the requirements of par. (a).

(c) A tank that meets the requirements of ch. NR 645, except for ss. NR 645.15 and 645.17 (1) (a) 3.

(d) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(3) **UNIVERSAL WASTE THERMOSTATS.** A large quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment.

(a) A large quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the thermostat, and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(b) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler does each of the following:

1. Removes the ampules in a manner designed to prevent breakage of the ampules.
2. Removes ampules only over or in a containment device, such as a tray or pan sufficient to contain any mercury released from an ampule in case of breakage.
3. Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container

that meets the requirements of ss. NR 610.08 (1) (o) and 615.05 (4).

4. Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of ss. NR 610.08 (1) (o) and 615.05 (4).

5. Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury.

6. Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers.

7. Stores removed ampules in closed, non-leaking containers that are in good condition.

8. Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling and transportation.

(c) 1. A large quantity handler of universal waste who removes mercury-containing ampules from thermostats shall determine whether either of the following exhibit a characteristic of hazardous waste identified in s. NR 605.08:

a. Mercury or clean-up residues resulting from spills or leaks.

b. Other solid waste generated as a result of the removal of mercury-containing ampules, such as remaining thermostat units.

2. If the mercury, residues or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the mercury, residues or other waste and is subject to chs. NR 610 and 615.

3. If the mercury, residues or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.34 Labeling and marking. A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste.

(1) A large quantity handler of batteries or a container or tank in which the batteries are contained shall label or mark clearly each battery or container or tank in which the batteries are contained. The handler shall label or mark the batteries, containers or tanks with any one of the following phrases: "Universal Waste - Batteries," "Waste Batteries" or "Used Batteries."

(2) A container or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in s. NR 690.06 (1) (a) are contained shall be labeled or marked clearly with both of the following:

(a) The label that was on or accompanied the product as sold or distributed.

(b) The words "Universal Waste - Pesticides" or "Waste - Pesticides."

(3) A container, tank or transport vehicle or vessel in which unused pesticide products as described in s. NR 690.06 (1) (b) are contained shall be labeled or marked clearly with both of the following:

(a) A label meeting one of the following descriptions:

1. The label that was on the product when purchased, if still legible.

2. If using the labels described in subd. 1. is not feasible, the appropriate label as required under the U.S. department of transportation regulations found at 49 CFR part 172.

3. If using the labels described in subds. 1. and 2. is not feasible, another label prescribed or designated by the pesticide collection program.

(b) The words "Universal Waste—Pesticides" or "Waste—Pesticides."

(4) A large quantity handler of thermostats or a container or tank in which the thermostats are contained shall label or mark clearly each thermostat or container or tank in which the thermostats are contained. The handler shall label or mark the thermostats or containers with any one of the following phrases: "Universal Waste—Mercury Thermostats," "Waste Mercury Thermostats" or "Used Mercury Thermostats."

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.35 Accumulation time limits. (1) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of sub. (2) are met.

(2) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler, if the activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal. However, the handler bears the burden of proving that the activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment or disposal.

(3) A large quantity handler of universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(a) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received.

(b) Marking or labeling the individual item of universal waste, such as each battery or thermostat, with the date it became a waste or was received.

(c) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received.

(d) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received.

(e) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received.

(f) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.36 Employee training. A large quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.37 Response to releases. (1) A large quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes.

(2) A large quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of chs. NR 600 to 685. The handler is considered the generator of the material resulting from the release, and is subject to chs. NR 610 and 615.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.38 Off-site shipments. (1) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility or a foreign destination.

(2) If a large quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of subch. IV while transporting the universal waste.

(3) If a universal waste being offered for off-site transportation meets the definition of hazardous materials found at 49 CFR parts 171 to 180, a large quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. department of transportation regulations found at 49 CFR parts 172 to 180.

(4) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

(5) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall do one of the following:

(a) Receive the waste back when notified that the shipment has been rejected.

(b) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(6) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that the handler has received from another handler. If a handler rejects a shipment or a portion of a shipment, the handler shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler shall do one of the following:

(a) Send the shipment back to the originating handler.

(b) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(7) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the department of the illegal shipment and provide the name, address and phone number of the originating shipper. The department will provide instructions for managing the hazardous waste.

(8) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.39 Tracking universal waste shipments.

(1) **RECEIPT OF SHIPMENTS.** A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste received shall include all of the following information:

(a) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.

(b) The quantity of each type of universal waste received.

Note: The phrase "type of universal waste" refers to batteries, pesticides, thermostats or other type of waste if this chapter is amended to apply to other wastes.

(c) The date of receipt of the shipment of universal waste.

(2) **SHIPMENTS OFF-SITE.** A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document.

ment. The record for each shipment of universal waste sent shall include all of the following information:

(a) The name and address of the universal waste handler, destination facility or foreign destination to whom the universal waste was sent.

(b) The quantity of each type of universal waste sent.

(c) The date the shipment of universal waste left the facility.

(3) **RECORDS RETENTION.** (a) A large quantity handler of universal waste shall retain the records described in sub. (1) for at least 3 years from the date of receipt of a shipment of universal waste.

(b) A large quantity handler of universal waste shall retain the records described in sub. (2) for at least 3 years from the date a shipment of universal waste left the facility.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.40 Exports. A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in s. NR 615.14 (1) shall do all of the following:

Note: A large quantity handler of universal waste who sends universal waste to those OECD countries specified in s. NR 615.14(1) is subject to the requirements of 40 CFR part 262, subpart H.

(1) Comply with the requirements applicable to a primary exporter in s. NR 615.12.

(2) Export such universal waste only upon consent of the receiving country and in conformance with the EPA acknowledgement of consent.

(3) Provide a copy of the EPA acknowledgement of consent for the shipment to the transporter transporting the shipment for export.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter IV—Standards for Universal Waste Transporters

NR 690.50 Applicability. This subchapter applies to universal waste transporters.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.51 Prohibitions. A universal waste transporter is prohibited from doing either of the following:

(1) Disposing of universal waste.

(2) Diluting or treating universal waste, except by responding to releases as provided in s. NR 690.54.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.52 Waste management. (1) A universal waste transporter shall comply with all applicable U.S. department of transportation regulations in 49 CFR part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the department of transportation regulations, a material is considered a hazardous waste if it is subject to the hazardous waste manifest requirements of the U.S. environmental protection agency specified in 40 CFR part 262. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the U.S. department of transportation regulations.

(2) Some universal waste materials are regulated by the department of transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under 40 CFR 262, they may not be described by the DOT proper shipping name "hazardous waste, (1) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste".

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.53 Storage time limits. (1) A universal waste transporter may not store universal waste at a universal waste transfer facility for more than 10 days.

(2) If a universal waste transporter stores universal waste for more than 10 days, the transporter becomes a universal waste handler and shall comply with subch. II or III while storing the universal waste.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.54 Response to releases. (1) A universal waste transporter shall immediately contain all releases of universal wastes and other residues from universal wastes.

(2) A universal waste transporter shall determine whether any material resulting from the release is hazardous waste, and if so, it is subject to chs. NR 600 to 685. If the waste is determined to be a hazardous waste, the transporter is subject to chs. NR 610 and 615.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.55 Off-site shipments. (1) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility or a foreign destination.

(2) If the universal waste being shipped off-site meets the U.S. department of transportation's definition of hazardous materials under 49 CFR 171.8, the shipment shall be properly described on a shipping paper in accordance with the applicable department of transportation regulations under 49 CFR part 172.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.56 Exports. A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in s. NR 615.14 (1) may not accept a shipment if the transporter knows the shipment does not conform to the EPA acknowledgement of consent. In addition, the transporter shall ensure that both of the following occur:

Note: A transporter who transports universal waste to those OECD countries specified in s. NR 615.14(1) is subject to the requirements of 40 CFR part 262, subpart H.

(1) A copy of the EPA acknowledgement of consent accompanies the shipment.

(2) The shipment is delivered to the facility designated by the person initiating the shipment.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter V—Standards for Destination Facilities

NR 690.60 Applicability. (1) The owner or operator of a destination facility is subject to chs. NR 600 to 685.

(2) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled shall comply with s. NR 625.04 (4).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.61 Off-site shipments. (1) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(2) The owner or operator of a destination facility may reject a shipment containing universal waste or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, the owner or operator shall contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility shall do one of the following:

(a) Send the shipment back to the original shipper, or

(b) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(3) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal

waste, the owner or operator of the destination facility shall immediately notify the department of the illegal shipment, and provide the name, address and phone number of the shipper. The department will provide instructions for managing the hazardous waste.

(4) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.62 Tracking universal waste shipments.

(1) The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste received shall include all of the following information:

(a) The name and address of the universal waste handler, destination facility or foreign shipper from whom the universal waste was sent.

(b) The quantity of each type of universal waste received, such as batteries, pesticides or thermostats.

(c) The date of receipt of the shipment of universal waste.

(2) The owner or operator of a destination facility shall retain the records described in sub. (1) for at least 3 years from the date of receipt of a shipment of universal waste.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter VI-Import Requirements

NR 690.70 Imports. Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this chapter, immediately after the waste enters the United States, as indicated in subs. (1) to (4).

(1) A universal waste transporter is subject to the universal waste transporter requirements of subch. IV.

(2) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subch. II or III, as applicable.

(3) An owner or operator of a destination facility is subject to the destination facility requirements of subch. V.

(4) Persons managing universal waste that is imported from an OECD country as specified in s. NR 615.14 (1) are subject to subs. (1) to (3), in addition to the requirements of 40 CFR part 262, subpart H.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter VII-Petitions to Include Other Wastes under ch. NR 690

NR 690.80 General. (1) Any person seeking to add a hazardous waste or a category of hazardous waste to this chapter may petition for a regulatory amendment under this subchapter and s. 227.12 (2) (b), Stats.

(2) To be successful, the petitioner shall demonstrate to the satisfaction of the department that regulation under the universal waste regulations of this chapter is appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of

the hazardous waste program. The petition shall include the information required by s. 227.12 (2) (b), Stats. The petition shall also address as many of the factors listed in s. NR 690.81 as are appropriate for the waste or waste category addressed in the petition.

(3) The department will evaluate petitions using the factors listed in s. NR 690.81. The department shall grant or deny a petition using the factors listed in s. NR 690.81. The decision will be based on the weight of evidence showing that regulation under ch. NR 690 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

NR 690.81 Factors for petitions to include other wastes under ch. NR 690. Factors for petitions to include other wastes under ch. NR 690 include the following:

(1) The waste or category of waste, as generated by a wide variety of generators, is listed in s. NR 605.09, or, if not listed, a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in s. NR 605.08.

Note: When a characteristic waste is added to the universal waste regulations of ch. NR 690 by using a generic name to identify the waste category, such as batteries, the definition of universal waste in ss. NR 600.03 and 690.03 will be amended to include only the hazardous waste portion of the waste category, such as hazardous waste batteries. Thus, only the portion of the waste stream that does exhibit one or more characteristics, and thus is hazardous waste, is subject to the universal waste regulations of this chapter.

(2) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments, including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities.

(3) The waste or category of waste is generated by a large number of generators and is frequently generated in relatively small quantities by each generator.

Note: More than 1,000 nationally would be considered a large number of generators.

(4) Systems to be used for collecting the waste or category of waste, including packaging, marking and labeling practices, would ensure close stewardship of the waste.

(5) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner, such as waste management requirements appropriate to be added to ss. NR 690.13, 690.33, and 690.52; or applicable U.S. department of transportation requirements, or both, would be protective of human health and the environment during accumulation and transport.

(6) Regulation of the waste or category of waste under this chapter will increase the likelihood that the waste will be diverted from non-hazardous waste management systems, including the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems, to recycling, treatment or disposal in compliance with chs. NR 600 to 685.

(7) Regulation of the waste or category of waste under this chapter will improve implementation of and compliance with the hazardous waste regulatory program.

(8) Such other factors as may be appropriate.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

