



October 30, 2014

To: Craig Butler, Director, Ohio Environmental Protection Agency
From: The Ohio Manufacturers' Association
Re.: **OMA Universal Waste Policy Recommendations**

Introduction

The Ohio Manufacturers' Association (OMA) work group on "Universal Waste" was formed in response to Ohio EPA's early stakeholder outreach document entitled, Universal Waste Regulatory Program Development, dated December 2012. The purpose of the work group was to review relevant information regarding Ohio's universal waste regulatory program and to provide information and expertise surrounding the expansion of the program to include paint and paint-related wastes.

Thank you for the opportunity to submit our positions with respect to the expansion of an Ohio universal waste regulatory program. This document reflects environmental policy guiding principles and recommendations to increase the competitiveness of Ohio's manufacturing economy, and therefore the Ohio economy. The concepts in this document were developed by OMA members in conjunction with staff and OMA environmental counsel.

OMA universal waste work group

The OMA is made up of over 1,400 member companies with strong interest in Ohio's environmental regulatory process. OMA members actively participate with the Agency on matters of importance to the member companies. This work group was comprised of OMA member experts and national subject matter experts commissioned to develop recommendations to Ohio EPA. The work group was comprised of the following members:

American Coatings Association
Chrysler Group LLC
General Motors
Honda of America Mfg., Inc.
MTD Products Inc.
Navistar Inc.
Ohio Paint Council
OMA Environmental Counsel, Bricker & Eckler LLP
PPG Industries
The Sherwin-Williams Company
Whirlpool Corporation

OMA Guiding Environmental Principles

Where environmental standards and regulations are concerned, manufacturers have a critical need for the following:

- Clarity, predictability and consistency
- Policies that reflect scientific consensus
- Common sense enforcement
- Careful cost-benefit analyses as part of the policymaking process

Recommendations

Expand Ohio's universal waste regulatory program to include paint and paint-related wastes

Universal wastes are specific hazardous waste streams that a generator can choose to manage in an alternative manner in place of the more complex hazardous waste requirements. Ohio's universal waste rules are intended to promote recycling as well as proper disposal by easing certain regulatory requirements. Ohio currently has four categories of universal waste that may be managed under the program: lamps; suspended or recalled pesticides; mercury-containing devices; and batteries. Ohio EPA has shown a willingness to expand universal waste to cover spent antifreeze and aerosol cans. The OMA strongly encourages Ohio EPA to further expand universal waste to cover paint and paint-related wastes.

According to the American Coatings Association, Ohio is one of the leading states in paint and coatings manufacturing. Paint and coatings manufacturers employ nearly 12,000 Ohioans at more than 1,000 different sites in Ohio. These employees make an average wage of \$52,750.00, ranking third in the nation.

Ohio is also a leader in automobile, heavy truck, consumer appliances, and outdoor power equipment. Each of these industries uses large amounts of paint in their manufacturing processes. These large amounts equal high volumes of hazardous waste being attributed to Ohio manufacturing facilities, which in turn increase the regulatory burdens on these manufacturers. Many paints are considered hazardous due to ignitability; however once dry, paints generally take on characteristics of non-hazardous waste. In 2002, U.S. EPA reviewed paint production wastes and decided not to list these as hazardous since it was determined they do not present substantial hazard to human health and environment.

Types of paint and paint related wastes

The State of Texas expanded its universal waste program to include paint and paint-related wastes in 1997. Included in the expanded program were:

- Used or unused paint
- Spent solvents used in painting
- Personal Protective Equipment (PPE) – including contaminated rags, gloves, 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
- Cleanup materials from painting and paint removal activities
- Other residues from the removal of paint

The OMA work group would suggest that Ohio adopt Texas' list and also add wastes from:

- Paint and paint-related wastes from consumers (i.e. Paint Care program run in other states)
- Retail and wholesale materials (i.e. off-spec and spill cleanup)
- Paint and paint-related wastes from paint manufacturing operations (off-spec, cleanup materials, filter materials)

Advantages of expanding universal waste regulations

Ohio continually finds itself competing against neighboring states to create the best business climate possible to attract new businesses and to allow existing businesses to expand. Ohio is uniquely positioned through history and geography as a place where manufacturing has flourished. Expanding the concept of universal waste would help continue to promote Ohio's competitive advantage as a prime place to base manufacturing activities. If permitted to manage paint and paint-related wastes under the universal waste regulatory program, Ohio would provide the following benefits:

- No manifest required when transporting paint and paint-related wastes
- No state notification (other than first time notification)
- No need to use registered transporter
- Waste does not count toward total hazardous waste generator status
- Waste is exempt from hazardous waste fees
- Waste may be accumulated up to one year (additional time can be granted if necessary to facilitate proper recovery, treatment, or disposal)
- Increase in manufacturer recycling
- Create incentives for new businesses to develop or expand solvent recycling facilities in Ohio

Importantly, these changes would be of great help to manufacturers by reducing cumbersome paperwork and storage requirements, while ensuring that paint-related wastes continue to be handled properly in Ohio. Making this change could reduce the regulatory burden on manufacturers by changing their status from Large Quantity Generator (LQG) to Small Quantity Generator (SQG) or even in some rare cases Conditionally Exempt Small Quantity Generator (CESQG). For example a Navistar truck plant in Texas made this transformation after Texas expanded universal waste to include paint and paint-related wastes. A SQG or CESQG has less burdensome paperwork requirements and more flexibility in storing hazardous waste on site as compared to a LQG. A significant number of manufacturers in Ohio are LQGs simply due to the amount of paint and paint-related waste they manage. Classifying these waste streams as universal waste provides incentives to recycle while relieving burdens of regulatory paperwork requirements.

The addition of paint and paint-related waste to the definition of universal waste also promotes the Agency's mission of protecting the environment. Paint-related waste streams will still be subject to certain rigorous regulations that are applicable to hazardous waste, such as requirements to conduct personnel training, properly manage waste in transportation, and proper use of disposal facilities. The universal waste designation allows generators more operational flexibility, encourages reuse and recycling while still maintaining regulatory requirements necessary for protection of human health and the environment.

Summary

The OMA is encouraged to see that Ohio EPA is re-evaluating its universal waste program to determine whether paint and paint-related wastes should be added to Ohio's list of universal wastes. This is an area where other states have already expanded to take advantage of ways to promote recycling and decrease the costs associated with managing hazardous wastes. The OMA previously met with Ohio EPA in early 2012 to discuss the expansion of Ohio's universal waste program to include paint and paint-related wastes, similar to regulations already implemented in the state of Texas. Expansion of the universal waste program provides benefits to both the environment (i.e., promotes recycling) and business (i.e., reduced regulatory costs and burdens). Therefore, OMA proposes that Ohio EPA expand its current list of universal wastes to include paint and paint-related waste. The OMA universal waste work group continues to work on draft language the agency can use to implement such a change to the current universal waste regulatory program.