

Revised Express Terms

6 NYCRR Part 370, Hazardous Waste Management System—General

(Statutory authority: Environmental Conservation Law, art. 1, title 1, art. 3, title 3, §§ 19-0301, 19-0303, 19-0304, 19-0306, 23-2305, 23-2307, 23-2308, art. 27, §§ 27-0105, 27-0106, 27-0305, 27-0905, titles 1, 3, 7, 9, 27-2007, §§ 70-0107, 70-0109, 70-0115, art. 71, § 71-2201, titles 27, 35)

Subdivisions 370.1(a) through 370.2(a) remain unchanged.

Subdivision 370.2(b) is amended by adding the following the definitions in alphabetical order:

Paragraphs 370.2(b)(1) through (7) remain unchanged.

Paragraphs 370.2(b)(8) through (12) are renumbered 370.2(b)(9) through (13).

New paragraph 370.2(b)(8) is added to read as follows:

(8) 'Aerosol can,' also referred to as a 'universal waste aerosol can,' means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas. Aerosol can does not include gas cylinders such as propane or acetylene.

Paragraphs 370.2(b)(13) through (180) are renumbered 370.2(b)(15) through (182)

New paragraph 370.2(b)(14) is added to read as follows:

(14) 'Architectural coatings' means paint used for homes and commercial buildings.

Newly renumbered paragraph 370.2(b)(137) is amended to read as follows:

(137) 'Paint,' also referred to as 'universal waste paint,' means interior and exterior architectural and structural coatings, including, but not limited to, primers, sealers, resin (single component), epoxy-based flooring paint (single-component), lacquers, latex, water-based paint, oil-based paint, and bridge paint. Paint does not include other industrial, original equipment or specialty coatings, paint thinners, or paint contaminated applicators, debris or personal protective equipment.

Paragraphs 370.2(b)(181) through (219) are renumbered 370.2(b)(184) through (222).

New paragraph 370.2(b)(183) is added to read as follows:

(183) 'Structural coating' means paint used for protective or decorative purposes on components that support built structures. Such components include, but are not limited to, bridges, trusses, girders, stringers and bents used to support walkways, roadways, railways or subways.

Newly renumbered paragraph 370.2(b)(208) is amended to read as follows:

(208) 'Universal waste' means any of the following hazardous wastes that are managed under the universal waste requirements of Subpart 374-3 of this Title:

(i) batteries as described in section 374-3.1(b) of this Title;

- (ii) pesticides as described in section 374-3.1(c) of this Title;
- (iii) mercury-containing equipment as described in section 374-3.1(d) of this Title; [and]
- (iv) lamps as described in section 374-3.1(e) of this Title[.];
- (v) aerosol cans as described in section 374-3.1(f) of this Title; and
- (vi) paint as described in section 374-3.1(g) of this Title.

Newly renumbered paragraph 370.2(b)(209) is amended to read as follows:

(209) 'Universal waste handler':

(i) means:

('a') a generator (as defined in this subdivision) of universal waste; or

('b') 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 foreign destination;

(ii) does not mean:

('a') a person who treats [(except under the provisions of section 374-3.2(d)(1) or (3), or 374-3.3(d)(1) or (3) of this Title)], disposes of, or recycles universal waste (except as provided in 374-3.2(d) and 374-3.3(d)); or

('b') a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Subdivision 370.2(c) through section 370.5 remain unchanged.

Express Terms

6 NYCRR Part 371, Identification and Listing of Hazardous Wastes

Subdivisions 371.1(a) through (i) remain unchanged.

Subdivision 371.1(j) is amended to read as follows:

(j) Requirements for universal wastes.

(1) The following wastes [listed in this section] are exempt from regulation under [Part 372 through Part 372, Part 373, Subpart 374-1 and Part 376 of this Title, [except as specified in Subpart 374-3 of this Title and, therefore are not fully regulated as hazardous waste. The wastes listed in this subdivision are subject to regulation under] and therefore are not fully regulated hazardous waste, if the wastes are managed in accordance with Subpart 374-3 of this Title:

(i) batteries as described in section 374-3.1(b) of this Title;

(ii) pesticides as described in section 374-3.1(c) of this Title;

(iii) mercury-containing equipment as described in section 374-3.1(d) of this Title; [and]

(iv) lamps as described in section 374-3.1(e) of this Title[.];

(v) aerosol cans as described in section 374-3.1(f) of this Title; and

(vi) paint as described in section 374-3.1(g) of this Title.

Sections 371.2 through 371.5 remain unchanged.

Express Terms

6 NYCRR Part 373, Hazardous Waste Management Facilities

(Statutory authority: Environmental Conservation Law, art. 3, § 3-0301, title 3, art. 17, §§ 19-0301, 19-0303, 19-0304, 19-0306, 23-2305, 23-2307, 23-2308, art. 27, §§ 27-0105, 27-0106, 27-0305, 27-0905, titles 7, 9, 27-2007, art. 36, §§ 54-0701, 54-0709, 70-0107, 70-0109, 70-0115, art. 71, § 71-2201, titles 27, 35)

Paragraph 373-1.1(a) through paragraph 373-1.1(b)(3) remain unchanged.

Paragraph 373-1.1(b)(4) is amended to read as follows:

(4) Universal waste handlers and transporters (as defined in section 370.2(b) of this Title) handling the wastes listed below are subject to regulation under Subpart 374-3 of this Title:

- (i) batteries as described in section 374-3.1(b) of this Title;
- (ii) pesticides as described in section 374-3.1(c) of this Title;
- (iii) mercury-containing equipment as described in section 374-3.1(d) of this Title;[and]
- (iv) lamps as described in section 374-3.1(e) of this Title[.];
- (v) aerosol cans as described in section 374-3.1(f) of this Title; and
- (vi) paint as described in section 374-3.1(g) of this Title.

Subdivision 373-1.1(c) through paragraph 373-2.1(a)(6) remain unchanged.

Paragraph 373-2.1(a)(7) is amended to read as follows:

(7) Universal waste handlers and transporters (as defined in section 370.2(b) of this Title) are subject to regulation under Subpart 374-3 of this Title, when handling the below-listed universal wastes:

- (i) batteries as described in section 374-3.1(b) of this Title;
- (ii) pesticides as described in section 374-3.1(c) of this Title;
- (iii) mercury-containing equipment as described in section 374-3.1(d) of this Title; [and]
- (iv) lamps as described in section 374-3.1(e) of this Title[.];
- (v) aerosol cans as described in section 374-3.1(f) of this Title; and
- (vi) paint as described in section 374-3.1(g) of this Title.

Paragraphs 373-2.1(a)(8) through 373-3.1(a)(8) remain unchanged.

Paragraph 373-3.1(a)(9) is amended to read as follows:

(9) Universal waste handlers and transporters (as defined in section 370.2(b) of this Title) are subject to regulation under Subpart 374-3 of this Title, when handling the below-listed universal wastes:

- (i) batteries as described in section 374-3.1(b) of this Title;
- (ii) pesticides as described in section 374-3.1(c) of this Title;
- (iii) mercury-containing equipment as described in section 374-3.1(d) of this Title; [and]
- (iv) lamps as described in section 374-3.1(e) of this Title[.];
- (v) aerosol cans as described in section 374-3.1(f) of this Title; and
- (vi) paint as described in section 374-3.1(g) of this Title.

Paragraph 373-3.1(a)(10) through section 373-3.31 remain unchanged.

Express Terms

6 NYCRR Part 374, Management of Specific Hazardous Waste

(Statutory authority: Environmental Conservation Law, art. 3, title 3, §§ 19-0301, 19-0303, 19-0304, 19-0306, 23-2305, 23-2307, 23-2308, art. 27, §§ 27,0105, 27-0106, 27-0305, 27-0926, titles 1, 3, 7, 9, 27-2007, §§ 70-0107, 70-0109, 70-0115, art. 71, § 71-2201, titles 27, 35)

Subparts 374-1 through 374-2 remain unchanged.

Section 374-3.1 heading through subdivision 374-3.1(a) remain unchanged

Paragraph 374-3.1(a)(1) is amended to read as follows:

(1) This Subpart establishes requirements for managing the following:

(i) batteries as described in subdivision (b) of this section;

(ii) pesticides as described in subdivision (c) of this section;

(iii) mercury-containing equipment as described in subdivision (d) of this section; [and]

(iv) lamps as described in subdivision (e) of this section[.];

(v) aerosol cans as described in subdivision (f) of this section; and

(vi) paint as defined in subdivision (g) of this section.

Paragraph 374-3.1(a)(2) through subparagraph 374-3.1(c)(2)(i) remain unchanged.

Subparagraph 374-3.1(c)(2)(ii) is amended to read as follows:

(ii) pesticides not meeting the conditions set forth in paragraph (1) of this subdivision. These pesticides must be managed in compliance with the hazardous waste regulations in Part 370 through Subpart 374-1, Subpart 374-4, and Part 376 of this Title[;], except that an aerosol can as defined in paragraph 374-3.1(i)(1) of this section that contains pesticides may be managed as a universal waste aerosol can under section 374-3.2(d)(5) or 374-3.3(d)(5) of this Subpart;

Subdivisions 374-3.1(d) through (e) remain unchanged.

Reserved paragraph 374-3.1(f) is repealed and replaced to read as follows:

(f) Applicability—aerosol cans.

(1) Aerosol cans covered under this Subpart. The requirements of this Subpart apply to any person managing one or more aerosol cans, as described in subdivision 374-3.1(i) of this section, except those listed in paragraph (2) of this subdivision.

(2) Aerosol cans not covered under this Subpart. The requirements of this Subpart do not apply to persons managing the following types of aerosol cans:

(i) an aerosol can that is not yet a waste under Part 371 of this Title. Paragraph (3) of this subdivision describes when an aerosol can becomes a waste;

(ii) an aerosol can that is not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in section 371.3 of this Title or the aerosol can contains a substance that is listed in section 371.4 of this Title;

(iii) an aerosol can that meets the standard for an empty container under section 371.1(h) of this Title;

(iv) an aerosol can that is an acute hazardous waste, including F027, as identified in section 371.4 of

this Title; and

(3) Generation of waste aerosol cans.

(i) A used aerosol can becomes a waste on the date it is discarded.

(ii) An unused aerosol can becomes a waste on the date the handler decides to discard it.

Existing reserved paragraph 374-3.1(g) is repealed and replaced to read as follows:

(g) Applicability—paint.

(1) Paint covered under this Subpart. The requirements of this Subpart apply to any person managing paint, as described in subdivision 374-3.1(i) of this section, except those listed in paragraph (2) of this subdivision.

(2) Paint not covered under this Subpart. The requirements of this Subpart do not apply to persons managing the following types of paint:

(i) paint that is not yet a waste under Part 371 of this Title. Paragraph (3) of this subdivision describes when paint becomes a waste;

(ii) paint that is not hazardous waste. Paint is a hazardous waste if the paint exhibits one or more of the characteristics identified in section 371.3 of this Title or the paint contains a substance that is listed in section 371.4 of this Title;

(iii) paint that contains PCBs; and

(iv) paint that contains one or more pesticides as defined in ECL 33-0101.

(3) Generation of waste paint. Paint becomes a waste on the date it is discarded or the date the handler decides to discard it, whichever is earlier.

Subdivision 374-3.1(h) remains unchanged.

Paragraph 374-3.1(i)(1) is renumbered 374-3.1(i)(2) and remains unchanged.

New paragraph 374-3.1(i)(1) is added to read as follows:

(1) 'Aerosol can,' also referred to as a 'universal waste aerosol can,' means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas. This definition does not include gas cylinders such as propane or acetylene.

Existing paragraphs 374-3.1(i)(2) through (9) are renumbered 374-3.1(i)(4) through (11).

New paragraph 374-3.1(i)(3) is added to read as follows:

(3) 'Architectural coating' means paint used for homes and commercial buildings.

Newly renumbered paragraph 374-3.1(i)(9) is amended to read as follows:

(9) 'Large quantity handler of universal waste' means a universal waste handler (as defined in this subdivision) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, [or] lamps, aerosol cans or paint, calculated collectively) at any time.

This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

Paragraphs 374-3.1(i)(10) and (11) are renumbered 374-3.1(i)(13) and (14).

New paragraph 374-3.1(i)(12) is added to read as follows:

(12) 'Paint,' also referred to as 'universal waste paint,' means interior and exterior architectural and structural coatings, including, but not limited to, primers, sealers, resin (single component), epoxy-based flooring paint (single-component), lacquers, latex, water-based paint, oil-based paint, and bridge paint. Paint does not include other industrial, original equipment or specialty coatings, paint thinners, or paint contaminated applicators, debris or personal protective equipment.

(i) Aerosol cans containing paint that are handled in accordance with this Subpart must meet the standards under section 374-3.2(d)(5) or 374-3.3(d)(5) of this Subpart until the paint has been removed.

(ii) Paint removed from the aerosol cans may be managed as universal waste paint in accordance with section 374-3.2(d)(6) or 374-3.3(d)(6) of this Subpart.

Newly renumbered paragraph 374-3.1(i)(14) is amended to read as follows:

(14) 'Small quantity handler of universal waste' means a universal waste handler (as defined in this subdivision) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing equipment, [or] lamps, aerosol cans or paint, calculated collectively) at any time.

Paragraphs 374-3.1(i)(12) through (16) are renumbered 374-3.1(i)(16) through (20).

New paragraph 374-3.1(i)(15) is added to read as follows:

(15) 'Structural coating' means paint used for protective or decorative purposes on components that support built structures. Such components include, but are not limited to, bridges, trusses, girders, stringers and bents used to support walkways, roadways, railways or subways.

Newly renumbered paragraph 374-3.1(i)(17) is amended to read as follows:

(17) 'Universal waste' means any of the following hazardous wastes that are subject to the universal waste requirements of this Subpart:

- (i) batteries as described in subdivision (b) of this section;
- (ii) pesticides as described in subdivision (c) of this section;
- (iii) mercury-containing equipment as described in subdivision (d) of this section;[and]
- (iv) lamps as described in subdivision (e) of this section[.];
- (v) aerosol cans as described in subdivision (f) of this section; and
- (vi) paint as described in subdivision (g) of this section.

Newly renumbered 374-3.1(i)(18) is amended to read as follows:

(18) 'Universal waste handler':

(i) Means:

('a') a generator (as defined in this subdivision) of universal waste; or

(b') 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.

(ii) Does not mean:

(a') a person who treats [(except under the provisions of section 374-3.2(d)(1) or (3); or 374-3.3(d)(1) or (3))], disposes of, or recycles universal waste (except as provided in 374-3.2(d) and 374-3.3(d)); or

(b') a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Subdivision 374-3.2(a) through clause 374-3.2(d)(3)(ii)(b') remain unchanged.

Clauses 374-3.2(d)(3)(ii)(c') and (d') are amended to read as follows:

(c') ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that [meets the] is subject to all applicable requirements of [section 372.2(a)(8)] Parts 370 through 374 and 376 of this Title;

(d') immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that [meets the] is subject to all applicable requirements of [section 372.2(a)(8)] Parts 370 through 374 and 376 of this Title;

Paragraph 374-3.2(d)(4) remains unchanged.

New paragraphs 374-3.2(d)(5) and (6) are added to read as follows:

(5) Aerosol cans. A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A universal waste aerosol can must be accumulated in a container that is structurally sound, is compatible with the contents of the aerosol can, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.

An aerosol can cannot be stored in the same container with another aerosol can if the contents of the aerosol cans are incompatible with each other.

(ii) A universal waste aerosol can that shows evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of subparagraph (5)(iv) or (v) of this paragraph.

(iii) A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(‘a’) sorting aerosol cans by type;

(‘b’) placing intact cans into one larger container; and

(‘c’) removing actuators to reduce the risk of accidental release.

(iv) A small quantity handler who receives and punctures aerosol cans from another handler must comply with the large quantity handler requirements of section 374-3.3 of this Subpart; and

(v) A small quantity handler of universal waste who only punctures and drains its own aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(‘a’) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(‘b’) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer’s specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(‘c’) Ensure that the can is punctured in a manner that is designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes, but is not limited to, locating the puncturing equipment on a solid, flat surface in a well-ventilated area, and only draining aerosol cans with compatible contents into the same container.

(‘d’) Immediately transfer the contents from the waste aerosol can or puncturing device, to a container or tank that meets the applicable requirements of sections 371.1(f) (standards applicable to conditionally exempt small quantity generators of hazardous waste) and 372.2 (standards applicable to small and large quantity generators of hazardous waste) of this Title.

(‘e’) Conduct a hazardous waste determination on the contents of the emptied aerosol can in accordance with section 372.2(a)(2) of this Title. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of Parts 370 through 374 and 376 of this Title. The handler is considered the generator of the hazardous waste and is subject to the applicable requirements of sections 371.1(f) (standards applicable to conditionally exempt small quantity generators of hazardous waste) and 372.2 (standards applicable to small and large quantity generators of hazardous waste) of this Title.

(f) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with Parts 360 through 369 of this Title.

(g) A written procedure must be established before a generator begins handling aerosol cans to address potential spills or leaks and must be implemented in the event of a spill or release. In addition, a spill clean-up kit must be readily accessible on-site. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

(6) Paint. A small quantity handler of universal waste must manage universal waste paint in a way that prevents the possibility of a fire, explosion, or unplanned sudden or non-sudden releases of any universal waste or component of a universal waste to the environment, as follows:

(i) Universal waste paint must be accumulated in containers that are structurally sound, compatible with the paint, lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and are protected from sources of heat or ignition.

(ii) Universal waste paint containers that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents.

(iii) Universal waste paint containers must be kept closed when not in use.

(iv) A small quantity handler of universal waste paint may conduct the following activities as long as each individual paint can is intact:

(a) sorting paint containers by type;

(b) placing intact containers into one larger container; or

(c) consolidating the same types of paints by opening containers and scraping, pouring, pumping, or draining the universal waste paint into another container to collect the paint provided consolidation occurs in an area that meets the secondary containment requirements under section 373-2.9(f)(1) of

this Title and the paint is transferred into a container meeting the requirements of subparagraph (6)(i) of this paragraph.

Paragraphs 374-3.2(e)(1) through (5) remain unchanged.

New paragraphs (6) and (7) are added to read as follows:

(6) Each universal waste aerosol can or a container holding a universal waste aerosol can managed pursuant to this Subpart must be labeled or marked clearly with one of the following phrases:

“Universal Waste—Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s).”

(7) Each container of universal waste paint or a container holding universal waste paint cans must be labeled or marked clearly with one of the following phrases: “Universal Waste—Paint(s)” or “Waste Paint(s).”

Subdivision 374-3.2(f) through subparagraph 374-3.3(c)(2)(iii) remain unchanged.

Subparagraph 374-3.3(c)(2)(iv) is amended to read as follows:

(iv) a list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing equipment, [and] lamps, aerosol cans, and paint); and

Subparagraphs 374-3.3(c)(2)(v) through 374-3.3(d)(3)(i)(b) remain unchanged.

Clauses 374-3.3(d)(3)(ii)(‘c’) and (‘d’) are amended to read as follows:

(‘c’) ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from the containment device to a container that [meets the] is subject to all applicable requirements of [section 372.2(a)(8)] Parts 370 through 374 and 376 of this Title;

(‘d’) immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that [meets the] is subject to all applicable requirements of [section 372.2(a)(8)] Parts 370 through 374 and 376 of this Title;

Clause 374-3.3(d)(3)(iii)(‘e’) through paragraph 374-3.3(d)(4) remain unchanged.

New paragraphs 374-3.3(d)(5) and (6) are added to read as follows:

(5) Aerosol cans. A large quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A universal waste aerosol can must be accumulated in a container that is structurally sound, is compatible with the contents of the aerosol can, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat. An aerosol can cannot be stored in the same container with another aerosol can if the contents of the aerosol cans are incompatible with each other.

(ii) A universal waste aerosol can that shows evidence of leakage must be packaged in a separate

closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of subparagraph (5)(iv) of this paragraph.

(iii) A large quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

(‘a’) sorting aerosol cans by type;

(‘b’) placing intact cans into one larger container; and

(‘c’) removing actuators to reduce the risk of accidental release; and

(iv) A large quantity handler of universal waste who punctures and drains aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:

(‘a’) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

(‘b’) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and proper waste management practices to prevent fires or releases); maintain a copy of the manufacturer’s specification and instruction on site; and ensure employees operating the device are trained in the proper procedures.

(‘c’) Ensure that the can is punctured in a manner that is designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes, but is not limited to, locating the puncturing equipment on a solid, flat surface in a well-ventilated area, and only draining aerosol cans with compatible contents into the same container.

(‘d’) Immediately transfer the contents from the waste aerosol can or puncturing device, to a container

or tank that meets the applicable requirements of sections 371.1(f) (standards applicable to conditionally exempt small quantity generators of hazardous waste) and 372.2 (standards applicable to small and large quantity generators of hazardous waste) of this Title.

(‘e’) Conduct a hazardous waste determination on the contents of the emptied aerosol can in accordance with section 372.2(a)(2) of this Title. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of Parts 370 through 374 and 376 of this Title. The handler is considered the generator of the hazardous waste and is subject to sections 371.1(f) (standards applicable to conditionally exempt small quantity generators of hazardous waste) and 372.2 (standards applicable to small and large quantity generators of hazardous waste) of this Title.

(‘f’) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with Parts 360 through 369 of this Title.

(‘g’) A written procedure must be established before a generator begins handling aerosol cans to address potential spills or leaks and must be implemented in the event of a spill or release. In addition, a spill clean-up kit must be readily accessible on-site. All spills or leaks of the contents of the aerosol cans must be cleaned up promptly.

(6) Paint. A large quantity handler of universal waste must manage universal waste paint in a way that prevents the possibility of a fire, explosion, or unplanned sudden or non-sudden releases of any universal waste or component of a universal waste to the environment, as follows:

(i) Universal waste paint must be accumulated in containers that are structurally sound, compatible with the paint, lack evidence of leakage, spillage or damage that could cause leakage under

reasonably foreseeable conditions, and are protected from sources of heat or ignition.

(ii) Universal waste paint containers that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents.

(iii) Universal waste paint containers must be kept closed when not in use.

(iv) A large quantity handler of universal waste paint may conduct the following activities as long as each individual paint can is intact:

(‘a’) sorting paint containers by type;

(‘b’) placing intact containers into one larger container; or

(‘c’) consolidating the same types of paints by opening containers and scraping, pouring, pumping, or draining the universal waste paint into another container to collect the paint, provided consolidation occurs in an area that meets the secondary containment requirements under section 373-2.9(f)(1) of this Title and the paint is transferred into a container meeting the requirements of subparagraph (6)(i) of this paragraph.

(v) Containers holding ignitable or reactive universal waste paint, as described in in sections 371.3(b) and (d) of this Title, must be located at least 50 feet from the facility’s property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing universal waste paint accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive universal waste is accumulated in this area.

Paragraphs 374-3.3(e)(1) through (5) remain unchanged.

New paragraphs 374-3.3(e)(6) through (7) are added to read as follows:

(6) Each universal waste aerosol can or a container holding a universal waste aerosol can managed pursuant to this Subpart must be labeled or marked clearly with one of the following phrases:

“Universal Waste—Aerosol Can(s),” “Waste Aerosol Can(s),” or “Used Aerosol Can(s).”

(7) Each container of universal waste paint or a container holding universal waste paint cans must be labeled or marked clearly with any of the following phrases: “Universal Waste—Paint(s)” or “Waste Paint(s).”

Subdivision 374-3.3(f) through paragraph 374-3.7(b)(8) remain unchanged.

Express Terms

6 NYCRR Part 376, Management of Specific Hazardous Waste

Section heading 376.1 through paragraph 376.1(a)(9) remain unchanged.

Paragraph 376.1(a)(10) is amended to read as follows:

(10) Universal waste handlers and universal waste transporters (as defined in section 370.2(b) of this Title) are exempt from subdivision (g) of this section and section 376.5 of this Part for the hazardous wastes listed below. [These] Universal waste handlers and universal waste transporters are subject to regulation under Subpart 374-3 of this Title.

(i) batteries as described in section 374-3.1(b) of this Title;

(ii) pesticides as described in section 374-3.1(c) of this Title;

(iii) mercury-containing equipment as described in section 374-3.1(d) of this Title; [and]

(iv) lamps as described in section 374-3.1(e) of this Title[.];

(v) aerosol cans as described in section 374-3.1(f) of this Title; and

(vi) paint as described in section 374-3.1(g) of this Title.

Subdivision 376.1(b) through paragraph 376.5(a)(7) remain unchanged.