

US EPA ARCHIVE DOCUMENT

DCN FLEP-00004

COMMENTS Dial Corporation

SUBJECT EXCL6

COMMENT We further recommend elimination of the required operating records by generators under Option 1 because it is discriminatory. Option 1's requirement for operating records regarding disposal is discriminatory to those who must certify when compared to others exempt from RCRA. This discrimination is a directly resulting increase in potential CERCLA liability exposure for those certifying. Any generator of spent mercury containing lamps, regardless of their generator status under RCRA, is a potentially responsible party (PRP) if the wastes were sent to a site later determined to be a Superfund site. Those having required records of their spent lamp shipments will be easier to name as PRPs by virtue of those records alone as compared to those (CESQG) not maintaining such records. Since most generators of spent lamps will not have to keep any records, we recommend all generators be allowed to do the same if Option 1 is selected to exempt spent lamps.

RESPONSE

In today's final rule, EPA is not finalizing the conditional exclusion option for the management of hazardous waste lamps. Rather, EPA is including spent hazardous waste lamps within the scope of the universal waste rule, 40 CFR Part 273. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at fully-regulated hazardous waste treatment and disposal facilities.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years (no certification is required). The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In the event that a disposal or recycling facility is determined to be a Superfund site, the Agency is required to gather information on all possible PRPs that have contributed to the contamination at

the site. As the commenter acknowledges, all generators, regardless of their regulatory status under RCRA, could be PRPs if the site to which the generators send their waste becomes a Superfund site. For additional information on the PRP search process, the commenter can contact EPA's Superfund Hotline at (800) 424-9346.

DCN FLEP-00016

COMMENTS Illinois Power Company

SUBJECT EXCL6

COMMENT Thus, IP supports a qualified exemption from Subtitle C regulation. Qualification for the exemption should require lighting wastes be sent to bonafide recyclers or Subtitle D landfills. Appropriate documentation tracking the waste from generator to disposal/recycling site should be maintained by the generator to demonstrate compliance with the exemption.

RESPONSE

Today's final rule does not finalize the conditional exclusion option for management of hazardous waste lamps. Rather, EPA is adding hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury and other hazardous constituents pose an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule. Under today's rule, untreated hazardous waste lamps may not be sent to a Subtitle D landfill.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00019

COMMENTER United States Air Force

SUBJECT EXCL6

COMMENT 2. In order to qualify for the exclusion under Option 1 of proposed regulation 40 CFR 261.4 (b) (16), a generator would be required to maintain a certification for each shipment of mercury-containing lamps. This certification is essentially a record keeping function proposed as a mechanism for verifying that the conditions of the exclusion have been met. It is worth noting that other solid wastes subject to existing "conditional exclusions" are not required to maintain a certification/record to verify that conditions of the exclusion have been met., (e.g. used chlorofluorocarbon refrigerants, provided that the refrigerant is reclaimed for further use (40 CFR 261.4(b) (12)), and non-terne plated used oil filters not mixed with listed hazardous waste, if hot- drained using one of the specified methods (40 CFR 261.4 (b) (15)). Additionally, under current hazardous waste regulations, a conditionally exempt small quantity generator may deliver hazardous waste to a facility permitted, licensed, or registered by a State to manage municipal or industrial hazardous waste or to a reclamation facility without maintaining any certification/record to verify the hazardous waste was delivered to such a facility. Therefore, a certification requirement for mercury- containing lamps is inconsistent, unnecessary, and unwarranted, and should be deleted from the exclusion conditions. The effect of not deleting the certification requirement from the exclusion conditions is overwhelming and unnecessarily burdensome on both the regulated and the regulating communities. If regulation 40 CFR 261.4(b)(16) is adopted as a final rule inclusive of the certification requirement, every person generating even a single spent mercury-containing lamp (unless the spent lamp is a household waste or is determined to be nonhazardous) will be required to maintain a certification. For hundreds of thousands of businesses, maintaining required certifications for three years or making hazardous waste determinations on each spent lamp would be administratively over burdensome and a great expense for little or no demonstrable purpose. It would present considerable probability of inequities in enforcement action by regulators since complete monitoring for compliance of every business imaginable would be a practical impossibility. Note is made that a conditionally exempt small quantity generator's

hazardous waste (which may include a single spent lamp) is not only subject to regulation under 40 CFR parts 262 through 266, 268, 270 and 124, but also to 40 CFR part 261, to include the certification requirement as proposed. Consequently, a conditionally exempt small quantity generator could, for example, generate 1 kilogram per month of spent lamps which requires a certification, plus 99 kilograms per month of "other" hazardous waste which does not require any kind of certification/record. 3. Under Option 1, proposed regulation 40 CFR 261.4(b)(16) states that to qualify for this exclusion... a generator must maintain in its operating records ... (underline added) the required certification for each shipment of mercury containing lamps. There is no requirement under current hazardous waste regulations for a person with generator status only, or accumulating hazardous waste in accordance with the provisions of 40 CFR 262.34 (at least in regard to containers), to maintain operating records. Consequently, the meaning of the proposed regulation as presently written is ambiguous and confusing. While strongly arguing that such documentation should not be required, if EPA decides that documentation is necessary to demonstrate compliance with the conditions of this exclusion, recommend the words "at his facility" be substituted for the words "in its operating records" in the second sentence of proposed regulation 40 CFR 261.4(b)(16).

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, *large quantity handlers* of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. Those handlers who have already notified EPA of their hazardous waste management activities are not required by the universal waste rule or today's final rule to re-notify EPA or obtain a new identification number. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being

shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. The requirement that large quantity handlers track shipments of lamps received and/or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency is aware that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the notification and tracking requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for hazardous waste lamps.

DCN FLEP-00020

COMMENTS Deere and Company

SUBJECT EXCL6

COMMENT 2. As long as the type of documentation is left flexible, a requirement for some form of documentation with each shipment is reasonable. The form of the paperwork should be left up to the generator and the landfill.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-

made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00023

COMMENTER Kmart Corporation

SUBJECT EXCL6

COMMENT Although Kmart Corporation supports the conditional exclusion, it is somewhat uncomfortable with the limited record keeping/transportation conditions proposed for the conditional exclusion. As generators of the waste, we may retain some potential liability arising out of the downstream handling or the disposition of the lamps and would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream waste management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00026

COMMENTS Thomas Industries, Inc.

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion

Record keeping/Transportation Thomas Industries is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste, we remain ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible

downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00027

COMMENTS Castrol North America Auto Division

SUBJECT EXCL6

COMMENT However, Castrol opposes the paperwork requirements of the proposed conditional exclusion for mercury-containing lamps. We feel that there are alternatives which can give the same assurance given by the certification required in the proposed rule. Castrol North America has several manufacturing, warehouse, research and development, and office facilities throughout the United States. Contrary to EPA's beliefs, most all of these facilities do not perform campaign changeouts but instead generate waste lamps by changing them on an as needed basis. A person's natural inclination would be to place these lamps in the trash to be disposed of with other municipal solid wastes. Thus, since EPA's own findings show almost 90% of all municipal solid waste landfills are or will be subject to RCRA Subtitle D programs, the generator's natural inclination would be in accordance with EPA's recommended disposal practice. The proposed paperwork requirements of the conditional exclusion will only serve to make the act unnatural and to actually increase the burden of disposing of mercury-containing lamps. Facilities would need to develop another system for the tracking, certification, and disposal of the lamps. Castrol proposes that the EPA require an annual certification stating that all mercury bulbs were sent to a state approved municipal solid waste landfill. Annual certification would cause each generator to review lamp disposal practices and agreements with waste contractors. In this way the conditional exclusion approach could focus on a proper management system rather than on a paper trail.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best

way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency is aware that maintaining records of waste management activities may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, only businesses that participate in mass relampings may accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the record keeping/tracking requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent hazardous waste lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for the lamps.

DCN FLEP-00028

COMMENTS Institute of Real Estate Mgmt.

SUBJECT EXCL6

COMMENT C. Record Keeping. The proposed requirement to record every instance when a property manager or owner relamps a property poses an undue and unnecessary burden on the owner or manager of smaller properties. Unlike large properties, which use mass relamping procedures every three to four years, smaller properties usually relamp on an as-needed basis, i.e., when a lamp burns out. Even when mass relamping procedures are used,

all lamps do not burn until the next relamping. There will always be some which burn out before the end of their expected life and are replaced on an as-needed basis. This record-keeping requirement is especially burdensome on the small operator who does not have a large maintenance staff to maintain these records.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

EPA notes that many smaller facilities conducting sporadic relamping will be considered conditionally exempt small quantity generators (CESQGs). CESQGs are not subject to the universal waste regulations, including the recordkeeping requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for fluorescent lamps.

DCN FLEP-00032

COMMENTER Niagara Mohawk

SUBJECT EXCL6

COMMENT 11. NMPC supports the concept of a certification being signed and maintained on site by the generator of the lighting waste. Documentation should not necessarily be submitted to the agency and it is incumbent upon the generator of such waste to demonstrate and satisfy the conditions contained in this rule. NMPC would like clarification from the EPA in the final rule as to whether the shipping paper which is sent to recyclers would meet this requirement.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00033

COMMENTER Brown and Caldwell

SUBJECT EXCL6

COMMENT The two conditions of the exclusion impose record keeping and certification requirements which Client believes are unduly

burdensome. The EPA bases its record keeping requirements on the incorrect assumption that the generation of lamps is sporadic. Because generation is not sporadic, Client's facility maintains a continuous relationship with the disposal facility. Additionally, the nature of the relationship between the landfill transporter and Client is distinguishable from that between Client and its hazardous waste transporter. No paperwork is executed at the scene of transport to the landfill, thus extensive paperwork would prove unworkable. Furthermore, as the EPA has acknowledged that mercury light tubes in landfills do not pose a great environmental risk, Client questions the need for a certification requirement Client recognizes the importance of record keeping and would propose that its purchasing records would be sufficient. Purchasing records would be indicative of light tube disposal because all tubes purchased are for replacement purposes.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the Agency appreciates that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00038

COMMENTS US West Business Resources, Inc.

SUBJECT EXCL6

COMMENT Following are specific comments on questions raised by the EPA in the proposed rules: 1. Written certification for each shipment
- This documentation, if limited to the information proposed (date, amount, transporter, destination facility) is not burdensome and provides sufficient documentation that conditions of the exclusion have been met. As with any waste management program it would remain the responsibility of the generator to verify that the transporter and recycler are fulfilling their contractual obligations and managing the lamps properly.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of

universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00040

COMMENTER Eli Lilly and Company

SUBJECT EXCL6

COMMENT III. Conditional Exclusion: The exclusion should require documentation of lamp shipments made to disposal or recycling sites. Lilly supports this requirement, recognizing that although mercury-containing lamps may be excluded from RCRA Subtitle C manifesting requirements, a system to track shipments is needed.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters (i.e., handlers) of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to these handlers. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at fully-regulated hazardous waste treatment and disposal facilities.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00054

COMMENTS U.S. Department of Interior

SUBJECT EXCL6

COMMENT If the Conditional Exclusion (option A) is selected, written certification should be maintained and generators should not be allowed to send lamps to waste combustors for disposal.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Hazardous waste lamps may not be managed at municipal waste combustors. Under the universal waste rule, all universal wastes generated by regulated universal waste handlers ultimately must be managed at treatment and disposal facilities or at hazardous waste lamp recycling facilities that are in compliance with all applicable state and federal hazardous waste management requirements, including the RCRA permitting requirements if the facility stores hazardous waste lamps prior to recycling them. Although management of mercury lamps at RCRA-permitted hazardous waste

combustion facilities is not prohibited by the universal waste rule, mercury emissions requirements and the costs associated with managing lamps at these facilities may effectively preclude the management of lamps at hazardous waste combustors.

DCN FLEP-00056

COMMENTS International Paper Company

SUBJECT EXCL6

COMMENT We further ask that the agency consider altering the "generator certification" portion of the exclusion to allow for an annual rather than a shipment by shipment certification requirement. The certification statement is there to make sure the generator understands his responsibilities and an annual statement would serve that purpose as well as having to maintain a shipment by shipment certification file.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters (i.e., handlers) of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to these handlers. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, *large quantity handlers* of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler is required to keep a record of each shipment of universal waste received and each shipment sent off-site. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. The Agency believes that it is important that handlers track large shipments of lamps, as well as other universal wastes. Small quantity handlers are not required to keep records of shipments of universal waste.

Although the Agency is aware that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the recordkeeping requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for fluorescent lamps.

DCN FLEP-00068

COMMENTS H.B. Fuller Company

SUBJECT EXCL6

COMMENT Also, the billing records and shipping papers between the reclaimer and the lamp generator could serve to document disposal. We have no objection to maintaining these records for the proposed three years.

RESPONSE

EPA thanks the commenter for supporting the proposed rulemaking. In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters (i.e., handlers) of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to these handlers. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of

universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00076

COMMENTER The Southland Corporation

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion

Record keeping/Transportation. The Southland Corporation is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste, we remain ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interest of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other

shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00077

COMMENTS Brown and Caldwell

SUBJECT EXCL6

COMMENT The two conditions of the exclusion impose record keeping and certification requirements which Client believes are unduly burdensome. The EPA bases its record keeping requirements on the incorrect assumption that the generation of lamps is sporadic. Because generation is not sporadic, Client's facility maintains a continuous relationship with the disposal facility. Additionally, the nature of the relationship between the landfill transporter and Client is distinguishable from that between Client and its hazardous waste transporter. No paperwork is executed at the scene of transport to the landfill, thus extensive paperwork would prove unworkable. Furthermore, as the EPA has acknowledged that mercury light tubes in landfills do not pose a great environmental risk, Client questions the need for a certification requirement. Client recognizes the importance of record keeping and would propose that its purchasing records would be sufficient. Purchasing records would be indicative of light tube disposal because all tubes purchased are for replacement purposes.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but

also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00078

COMMENTS Tennessee Valley Authority

SUBJECT EXCL6

COMMENT Storage, handling, and record keeping - The storage, handling, and record keeping requirements under the conditional exclusion and the universal waste options are unclear. To avoid unnecessary administrative costs, we believe generators should be allowed flexibility in how lighting wastes are stored, consolidated, and accounted for. Our experience indicates that

routine lamp replacement is an ongoing activity and not a "batch" activity as EPA suggests. Requiring generators to maintain shipping records for lighting wastes that are not hazardous waste is an unnecessary administrative burden.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers of universal waste are not required to keep records.

In addition, today's final rule amends the universal waste rule to include management standards for handlers of spent hazardous waste lamps. Included within these standards are requirements for accumulating, storing and packaging lamps to prevent releases to the environment. The requirements provide a great degree of flexibility because they are generally performance-based standards rather than prescriptive technical standards.

Although the Agency appreciates that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four

years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00079

COMMENTS Voltarc Technologies, Inc.

SUBJECT EXCL6

COMMENTS Comments on the Recording Keeping and Transportation Aspects of the Conditional Exclusion. Voltarc is uncomfortable with the limited conditions proposed for the Conditional Exclusion. As generators of the wastes who are ultimately responsible for the proper disposal of the lamps, we would prefer to see record keeping requirements for transporters to ensure delivery to the designated facility.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation

and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00090

COMMENTER The Boeing Company

SUBJECT EXCL6

COMMENT Mechanisms to demonstrate compliance. We do not support the proposed labeling, and shipment record keeping requirement. From an on-site waste management perspective, such requirements seem to defeat the purpose for selecting this waste stream apart from other hazardous wastes. This is because we believe the agency considers mercury lamps are deemed to be less hazardous than other hazardous wastes; therefore, they should merit less management control. The agency can help move wastes up the management hierarchy by promoting reclamation and efficient management of waste when adopting the less stringent management requirements. The additional benefit to this is that indirectly the agency is promoting more efficient on-site waste management by allowing generators to focus their efforts on wastes which are more hazardous to the environment.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best

way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include management standards for handlers of spent hazardous waste lamps. Included within these standards are requirements for accumulating, storing and packaging lamps to prevent releases to the environment. The requirements provide a great degree of flexibility because they are generally performance-based standards rather than prescriptive technical standards.

The handling requirements in the final rule are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00101

COMMENTS Montana-Dakota Utility Company

SUBJECT EXCL6

COMMENT 6. The certification requirement proposed in section 261.4(b)(16) should be a one time certification and not be required every time light bulbs are disposed. Most facilities change out only the bad light bulbs. By replacing just the bad light bulbs, a few light bulbs are continuously being landfilled instead of a large quantity periodically landfilled. It would be impractical and unrealistic to require a certification every time a light bulb is landfilled. A one time written certification will show compliance, and verify where and how the light bulbs are being disposed. If the landfill used for disposal changes then a new one time written certification should be required before disposal in the new landfill. This

procedure of certification will accomplish the goal of certification.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records.

Although the Agency is aware that the recordkeeping requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the shipment tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of lamps once every few years.

DCN FLEP-00114

COMMENTS Meijer, Inc.

SUBJECT EXCL6

COMMENT Meijer is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As the generator of the waste, we remain ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00134

COMMENTS Aetna Life and Casualty Company

SUBJECT EXCL6

COMMENT Documentation Form and Frequency. USEPA requests comments on the form and frequency of proposed documentation (Section V.A.).

Aetna concurs with the need for documentation to justify a generator's compliance with the exclusion; however, the proposed

rule provides for only one form Aetna believes that any documentation, e.g., shipping documents, billing, etc., should be adequate to demonstrate compliance with the exclusion. Within the proposed rule USEPA states that the generator must maintain documentation within its "operating records." As this term has a specific meaning under 40 CFR 264 and 265, Aetna believes it is appropriate to delete this term from the proposed language and possibly replace it with "records". Lastly, the proposed wording requires that the generator certify that the lamps were consigned to a specific transporter for disposal/recycling at a specific facility. Aetna fully agrees that a generator should be cognizant of all treatment/disposal activities performed on its waste given the potential liability. Aetna is concerned, though, that a generator could potentially, and in good faith, certify that the waste went to a specific facility when, in actuality, the waste may have gone elsewhere.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00137

COMMENTS Planned Lighting, Inc.

SUBJECT EXCL6

COMMENT Planned Lighting is uncomfortable with the limited conditions proposed for the conditional exclusion. With our company possibly being in a position of liability for this disposal, we would prefer to see record keeping requirements for those who transport the waste, to insure that it is delivered to the designated destination.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of

spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00140

COMMENTER Texas Utilities Services, Inc.

SUBJECT EXCL6

COMMENT EPA believes the relamping would be a sporadic process, occurring about every three years, and not requiring continuous use of a landfill or recycling center. For this reason EPA seeks to require each shipment to be documented to ensure proper disposal. The exemption would be contingent on the documentation. Contrary to the EPA scenario, Texas Utilities's relamping is an on-going process. We replace up to 400,000 lamps at our facilities and in street lamps annually. At the same time, we would oppose any requirement for separation and record keeping for various types of lamps (mercury-containing versus non-mercury lamps). Texas Utilities uses more than 750 different types of lamps in a wide range of shapes and sizes. The separation and record-keeping would add nothing to environmental protection efforts and simply would be an ineffective use of time and resources.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Today's final rule requires that hazardous waste lamps that exhibit a characteristic of hazardous waste be managed at either a hazardous waste lamp recycling facility or a Subtitle C treatment or disposal facility. Untreated hazardous waste lamps may not be managed in Subtitle D landfills. Today's final rule also subjects handlers of hazardous waste lamps to a streamlined set of management standards for controlling potential releases from spent lamps prior to ultimate disposition.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The Agency believes that standard business records that are normally kept by businesses will fulfill this requirement. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The record keeping requirements and the definition of a large quantity handler of universal waste represent reduced, streamlined standards over the hazardous waste management standards

previously imposed upon generators and transporters of hazardous waste lamps.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

Although the Agency appreciates the fact that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators.

With respect to managing different types of spent lamps, EPA notes that handlers may choose to manage all spent lamps as universal waste, including non-hazardous waste lamps.

DCN FLEP-00141

COMMENTS Dow Chemical Company

SUBJECT EXCL6

COMMENT ON-SITE HANDLING CONTROLS The proposed certification should not be required for on-site management. At 59 FR 38294, the proposal requests comments on the handling of lamps during storage and transportation and also refers to controls proposed in the universal waste management system. At the Dow site discussed above, fluorescent lamps are repackaged in the boxes used to ship the new lamps, when possible. Since the lamps are managed on-site and not shipped off-site, there is no benefit to require an internal written certification for each shipment of lamps. Additionally, this facility does not perform massive relamping, but changes lamps only when necessary. If the rule is promulgated as proposed, this approach would result in multiple certifications per day over this 1,500 acre site. EPA should allow annual certification for on-site disposal, as suggested above.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Today's final rule requires that hazardous waste lamps that exhibit a characteristic of hazardous waste be managed at either a hazardous waste lamp recycling facility or a Subtitle C treatment and/or disposal facility. Untreated hazardous waste lamps may not be managed in Subtitle D landfills. Today's final rule also subjects handlers of hazardous waste lamps to a streamlined set of management standards for controlling potential releases of mercury from spent lamps prior to ultimate disposition.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler is required to keep a record of each shipment of universal waste received and each shipment sent off-site. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The record keeping requirements and the definition of a large quantity handler of universal waste represent reduced, streamlined standards over the hazardous waste management standards previously imposed upon generators and transporters of hazardous waste lamps.

If a large quantity handler of universal waste manages its spent lamps on-site, the handler must notify EPA of its lamp management activities. However, such handlers are not subject to the tracking requirements for off-site shipments. Large quantity handlers that receive shipments of spent lamps from off-site must keep a record of all shipments received.

Although the Agency is aware that the record keeping requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the record keeping requirements, is not applicable to conditionally-exempt small quantity generators. In addition, given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00148

COMMENTS Total Lighting Maintenance and Electric

SUBJECT EXCL6

COMMENT POSITION ON CONDITIONS OF THE EXCLUSION.

TOTAL LIGHTING MAINTENANCE IS UNCOMFORTABLE WITH THE LIMITED CONDITIONS FOR CONDITIONAL EXCLUSION. I WOULD PREFER TO SEE RECORD KEEPING REQUIREMENTS FOR THE TRANSPORTERS OF LAMPS SO I KNOW IT REACHED A DESIGNATED DISPOSAL SIGHT.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00149

COMMENTS Weyerhaeuser Company

SUBJECT EXCL6

COMMENT However, Weyerhaeuser does not believe that the used lamp generator needs to certify and maintain the certifications for three years. The generators should only be required to ensure that the lamps are being disposed in an approved Subtitle D Municipal Solid Waste Landfill, and a one time notice to file that used lamps are being sent for disposal.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse

universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. Handlers of universal waste may not manage untreated hazardous waste lamps at Subtitle D facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler is required to keep a record of each shipment of universal waste received and each shipment sent off-site. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. These requirements represent reduced, streamlined standards over the standards previously imposed upon generators and transporters of hazardous waste lamps under Subtitle C.

Although the Agency is aware that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the record keeping requirements, is not applicable to conditionally-exempt small quantity generators. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps, and therefore be subject to the requirements for large quantity generators of universal waste, once every few years.

DCN FLEP-00150

COMMENTER Anchorage Municipal Light and Power

SUBJECT EXCL6

COMMENT AML&P supports the concept of the second (record keeping) condition of the exclusion, but disagrees with proposed regulatory language of 40 CFR 261.4(b)(16) with regard to it. It is likely that most mercury-containing lamps will end up commingled in small quantities with large quantities of other solid waste in the ultimate container (dumpster or garbage can) picked up by the solid waste disposal service. The benefits of the proposed generator certification for every shipment is unclear, but the response is predictable: generators will reduce the paperwork requirements and record-retention liabilities by reducing the number of shipments through accumulation of larger quantities of mercury-containing lamps. The result will be a greater potential for mercury contamination and exposure in areas where lamps are accumulated. It is a safe assumption that if a generator receives solid waste services where the waste ends up in an MSW facility, that is where the mercury-containing

lamps will end up. Thus, record keeping could be as simple as maintaining an agreement with the solid waste service. For areas not serviced by an MSW facility, or for organizations choosing to recycle, the record keeping could take the form of a recycling agreement with the approved mercury reclamation facility. The maintenance of an agreement would provide inspectors an auditable record, which a certification for individual shipments cannot.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. Handlers of universal waste many not manage untreated hazardous waste lamps at Subtitle D facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler is required to keep a record of each shipment of universal waste received and each shipment sent off-site. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. These requirements represent reduced, streamlined standards over the standards previously imposed upon generators and transporters of hazardous waste lamps under Subtitle C.

Although the Agency is aware the fact that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the record keeping requirements, is not applicable to conditionally-exempt small quantity generators. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps, and therefore be subject to the requirements for large quantity generators of universal waste, once every few years.

DCN FLEP-00151

COMMENTS Association of American Railroads

SUBJECT EXCL6

COMMENT With respect to the proposed record keeping requirements under the first alternative, the railroads suggest that any required records simply be maintained on site. In addition, no reporting should be required.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at fully-regulated hazardous waste treatment and disposal facilities.

Today's rule contains recordkeeping requirements for large quantity handlers (i.e., handlers that accumulate more than 5,000 kg of universal waste at any one time). A large quantity handler is required to keep a record of each shipment of universal waste received and sent off-site from the facility. Records must be kept on-site for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The only reporting required under the universal waste rule is a one-time notification of waste management activities for large quantity handlers of universal waste.

Although the Agency is aware the fact that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the record keeping requirements, is not applicable to conditionally-exempt small quantity generators. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps, and therefore be subject to the requirements for large quantity generators of universal waste, once every few years.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT EXCL6

COMMENT 1. Record keeping and Reporting for Generators--necessary to allow regulatory enforcement. a. Keep records for three years of number and type of lamp discards, transporter used, destination sent, and whether lamps were sent intact or crushed. (Lamp replacement purchase orders and other existing paperwork may meet requirement.) b. Report to state agency any relamping project over 30,000 lamp, (30,000 lamps equates to one truckload of intact four foot lamps, which contains an amount of mercury approximately equal to the Reportable Quantity of 1 pound, such that a spill resulting in the breakage of an entire truckload of intact four foot lamps would require a report to the National Response Center. Office space amounting to 600,000 to 750,000 square feet requires approximately 30,000 four foot lamps.)

RESPONSE

The Agency thanks the commenter for its suggestions for final recordkeeping requirements. In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

The final rule includes notification and tracking requirements for large quantity handlers (i.e., handlers that accumulate more than 5,000 kg of universal waste at any one time). A large quantity handler is required to notify EPA of the handler's waste management activities and keep a record of each shipment of universal waste received and sent off-site from the facility. Records may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, purchasing records may not be sufficient documentation because such records do not reflect the quantities of spent lamps managed. Records must be kept on-site for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The only reporting required under the universal waste rule is a one-time notification of waste management activities for large quantity handlers of universal waste.

DCN FLEP-00156

COMMENTS National Electrical Manufacturers Assn.

SUBJECT EXCL6

COMMENT 5. Record keeping Requirements for Transporters--necessary for regulatory enforcement. a. Keep records for three years of number of intact lamps transported or weight of crushed lamps, whether lamps are boxed or drummed, generator, and receiving facility for each shipment.

RESPONSE

The Agency thanks the commenter for its suggestions for final recordkeeping requirements. In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

The final rule contains recordkeeping requirements for large quantity handlers (i.e., handlers that

accumulate more than 5,000 kg of universal waste at any one time). A large quantity handler is required to keep records of each shipment of universal waste both received and sent off-site from the facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The only reporting required under the universal waste rule is a one-time notification of waste management activities for large quantity handlers of universal waste.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT EXCL6

COMMENT (ii)the landfill keeps records for three years of the number, volume, or weight of lamps disposed from segregated shipments, the generator of each shipment, the transporter of each shipment, and whether the lamps were crushed before being disposed in the landfill unit;

(v) each party in the landfilling process keeps an annual certification on file which states that he/she has complied with all applicable requirements. The certification must also list all of the requirements complied with.

(iii)are the subject of an annual certification kept on file by each party in the landfilling process which states that he/she has complied with all items listed in the Guidance Document.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Today's final rule requires that hazardous waste lamps that exhibit a characteristic of hazardous waste be managed at either a lamp recycling facility or a Subtitle C treatment or disposal facility. Hazardous waste lamps may not be managed in Subtitle D landfills. Subtitle C landfills receiving spent lamps are required to comply with all applicable Subtitle C management standards, including the operating requirements of 40 CFR 264.301 and the recordkeeping requirements in 40 CFR

264.309.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT EXCL6

COMMENT E. PROPOSED ENFORCEMENT APPROACH NEMA is aware that EPA has been concerned about the enforceability of a conditional exclusion.

NEMA understands this concern and has therefore included notification, record keeping, and certification requirements in the recommended BMPs. Notification of activities involving high volumes of lamps can be used to trigger inspections, where EPA can review records and certifications to determine compliance. Absence of records or certifications invalidates the exclusion, allowing EPA to take enforcement action under Subtitle C. Absence of required documentation at a recycling facility would also invalidate the exclusion. Penalties could be imposed on landfills that fail to dispose of lamps in units that do not meet the appropriate standards and on recycling facilities that sell contaminated end products or fail to document the level of contamination. Since mercury-containing lamps are so widely used for business, commercial, and industrial lighting, enforcing agencies can also address compliance with the exclusion during routine inspections of such facilities. Compliance with lamp provisions can also be incorporated into inspections of municipal landfills. Thus, enforcement of the conditional exclusion can be performed through existing enforcement procedures.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to handlers of spent lamps. At the same time, the universal waste rule ensures that spent lamps ultimately are managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Since the universal waste rule is part of Subtitle C of RCRA, EPA retains all RCRA enforcement authorities governing the management of hazardous wastes.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT EXCL6

COMMENT 4. EPA proposes that generators maintain a written certification indicating the disposal or recycling location for spent lamps. NEMA believes that additional record keeping may better assure effective enforcement of the exclusion. NEMA has proposed in Section III more comprehensive record-keeping that creates a complete paper trail for the spent lamps. NEMA does not believe that these requirements are overly burdensome and notes that they are not applicable to CESQGs or to spent lamps that do not fail the TCLP.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps. CESQGs are not subject to the universal waste regulations, including the notification and tracking requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the

universal waste regulations for fluorescent lamps.

DCN FLEP-00159

COMMENTS Motorola, Inc.

SUBJECT EXCL6

COMMENT 3. Written certification Motorola is very concerned that in order to take advantage of the proposed Conditional Exclusion a generating facility must make a written certification with each waste shipment. The proposed certification states that on a specified date a specified amount of lamps was consigned to a specified transporter for disposal or recycling in a specified facility. The fact that the certification is required for each shipment of lamps is especially problematic. Specifically, this condition of the proposed Conditional Exclusion applies regardless of the volume of spent mercury containing lamps in the shipment. This will cause an unnecessary burden to sites which generate small quantities of waste lamps. Motorola does not believe it is beneficial to execute a certification for a compactor or dumpster with two or three lamps which are destined for a municipal waste landfill. Most mercury containing lamp generation at Motorola manufacturing sites is on an ongoing and sporadic basis. The mass relamping as discussed in EPA's preamble may be a one time occurrence as the facility just begins participating in the Green Lights Program. Alternatively, specifically segregating all mercury containing fluorescent lamps in separate areas is likely to raise state regulatory concerns which will preclude the generator from treating the material as a municipal solid waste. Typically, large quantities of bulbs are treated at the state level as industrial solid, or special waste (even if not hazardous). Additionally, most state environmental agencies have indicated that a generator may dispose of a certain number of spent fluorescent light bulbs at any one time and any one day in their non-hazardous waste. (See Attachment D)[See hard copy of Comment FLEP-00150 for attachment.]. Segregating all light bulbs and exceeding these limits could preclude facilities from taking advantage of these state interpretations, and ultimately EPA's proposal. This is especially true if the EPA does not broaden the scope of the proposal beyond municipal landfills. Finally, it is Motorola's opinion that the documentation requirements as proposed do not significantly impact the handling of mercury containing lamps and their impact upon the environment. However, if the Agency

decides that documentation is necessary, Motorola recommends that a generator be permitted to make an annual certification utilizing site inventories as the basis to specify the number of bulbs disposed in a twelve month period.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site.

Small quantity handlers are not subject to recordkeeping requirements. The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency appreciates that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the notification and tracking requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of

spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for fluorescent lamps.

DCN FLEP-00164

COMMENTS E.I. Du Pont De Nemours and Co., Inc.

SUBJECT EXCL6

COMMENT The proposed requirement to include a certification with each shipment of mercury-containing lamps under the conditional exclusion is unnecessarily burdensome. Du Pont strongly opposes any provision whereby failure to maintain written certifications would disqualify generators from eligibility for the exclusion. The Agency should clarify that land disposal restriction notification/certification forms are not required under either of the proposed alternatives.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Under the final rule, *large quantity handlers* of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to track shipments of universal waste. The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency is aware that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule

represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the notification and tracking requirements. However, these generators may choose to comply with the universal waste standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for fluorescent lamps.

The comment also discusses the applicability of the Land Disposal Restriction (LDR) Program on Fluorescent Lamps. Under the universal waste regulations, handlers and transporters are exempt from 40 CFR 268.7 (notification and certification) and 268.50 (storage prohibition). However, destination facilities are subject to full LDR regulations under Part 268.

DCN FLEP-00164

COMMENTS E.I. Du Pont De Nemours and Co., Inc.

SUBJECT EXCL6

COMMENT DU PONT OPPOSES THE REQUIREMENT TO INCLUDE A CERTIFICATION WITH EACH SHIPMENT OF MERCURY-CONTAINING LAMPS UNDER THE CONDITIONAL

EXCLUSION Under the conditional exclusion, the Agency proposes to require that generators maintain a written certification indicating the disposal or recycling location for spent lamps. This certification would be required for each shipment and state that on a specific date a specific amount of lamps was consigned to a specified transporter for disposal or recycling at a specified facility. Mercury-containing lamp generation occurs more frequently than the EPA believes, as DuPont generates up to 700 spent lamps per month at certain facilities. Therefore, this condition appears to pose an unnecessary paperwork burden for those generators. Systems already exist to gather information from commercial facilities handling the lamps regarding the amount of mercury-containing lamps sent for disposal or recycling. DuPont believes the certification requirements should be simplified. We believe the certification

requirements when shipping mercury-containing lamps under the conditional exclusion should be the same as for decharacterized wastes being sent to Subtitle D facilities under the land disposal restrictions [57 FR 37210]. Generators would include certifications for the initial shipment only and place one copy in the generators own files and send another copy to the appropriate EPA region or authorized state. This documentation would be retained by the generator for at least 3 years. The certification in the generators files would need to be updated if the disposal or recycling facility receiving the lamps changed. However, the generator would only need to notify the EPA or authorized state on an annual basis (by December 31) if the disposal or recycling facility receiving the lamps changed. The certification would include the name and address of the disposal or recycling facility, an estimate of the type and quantity of lamp generated annually and a certification that they are being managed in accordance with 40 CFR 261.4. If the Agency should find it necessary to require a certification statement be sent with every shipment, it should be simple and concise so that it may be included on a standard bill of lading. The bill of lading could be retained for up to three years from the date of shipment and typically contains most of the information the Agency proposed to be included in the certification statement (the date of the shipment, an estimated amount of lamps shipped, the transporter, and the disposal or recycling facility). However, due to difficulties which may arise in determining the exact number of lamps in a shipment (e.g. shipments of crushed lamps, consolidation with other wastes being sent to the same disposal or recycling facility), DuPont believes it is more appropriate to include an estimated number of lamps shipped in the certification. Therefore, we would suggest changing the language of the certification to reflect that the amount of lamps consigned is an estimated number. DU PONT STRONGLY OPPOSES ANY PROVISION WHEREBY FAILURE

TO MAINTAIN WRITTEN CERTIFICATIONS WOULD DISQUALIFY GENERATORS FROM ELIGIBILITY FOR THE EXCLUSION As stated in the preamble to the proposed rule [59 FR 38295], existence of the proposed certification would not protect a generator from an enforcement action if spent lamps were not actually disposed of or recycled in accordance with the exclusion. This correctly implies that there is greater risk to human health and the environment from

actual mismanagement of spent lamps as opposed to whether or not "paper records" have been maintained. DuPont believes that under either of the proposed alternatives the vast majority of generators will ship lamps directly to recycling or disposal facilities, creating tracking records (i.e. shipping papers) including a quantity and description of the type of waste consigned. DuPont also believes that contracts which exist between generators and recycling facilities adequately describe how the receiving facility will manage the consigned waste. For these reasons, Du Pont believes existing RCRA "burden of proof" requirements under 40 CFR 261.2(f) are a more appropriate mechanism towards determining compliance with any claimed exclusion.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records may take the form of a log, invoice, manifest, bill of lading, or other shipping paper. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency appreciates that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full

Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00165

COMMENTS Ohio Chamber of Commerce

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion

Recordkeeping/Transportation While we strongly support the conditional exclusion, we are somewhat uncomfortable with the limited conditions proposed. As generators of the waste, our members remain ultimately responsible for the disposition of the lamps and would prefer to see recordkeeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard

business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00166

COMMENTER American Electric Power Service Corp.

SUBJECT EXCL6

COMMENT The proposed packaging, handling, recordkeeping, notification, and certification requirements associated with the conditional exclusion are unnecessary and we request that the added requirements be removed.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency is aware that the final management requirements may be viewed as burdensome to some handlers, the Agency points out that the final rule is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate significant quantities of spent lamps once every few years.

DCN FLEP-00166

COMMENTS American Electric Power Service Corp.

SUBJECT EXCL6

COMMENT c. A means for demonstrating compliance with the conditional exclusion is unnecessary and should not be included. EPA requests comment on the need for generators to certify that they are managing lighting waste in accordance with the provisions of the exclusion. To this end, EPA has proposed that generators keep records on the disposal of lighting waste via a certification statement which includes disposal date, quantities of bulbs disposed, and disposal location. EPA acknowledges, however, that this type information will also be available at facilities (i.e., recyclers) since they are required to maintain documentation under 40 CFR 264.73 (see 59 FR 38296). Therefore, requiring generators to keep these records as well is duplicative and unnecessary. Furthermore, it appears as if the notification and recordkeeping requirements are intended to ensure that the lighting waste is in fact being handled as such. We are confused as to the real benefits of these additional administrative requirements. The simplest compliance strategy for any generator is to dispose of lighting waste along with other trash. Why does the Agency want to force generators to certify that they really threw light bulbs away? This

approach defies common sense. Mismanagement will not be prevented by a recordkeeping or certification requirement. Those that choose not to comply with proper management techniques would likely be inclined to falsely keep records. In short, generator certification and recordkeeping is unnecessary and the corresponding language should be removed from the text of the proposed ' 261.4(b) (16) exclusion.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at fully-regulated hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records may take the form of a log, invoice, manifest, bill of lading, or other shipping paper. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. Small quantity handlers are not required to track shipments of universal waste.

The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency appreciates the fact that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00168

COMMENTS Merck and Company, Inc.

SUBJECT EXCL6

COMMENT Another concern is that a paperwork violation could invalidate the conditional exclusion. This would tend to discourage facilities from using the exemption and potentially be a disincentive to appropriate management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00172

COMMENTS Natural Gas Pipeline Company of America

SUBJECT EXCL6

COMMENT OPTION 1 MODIFICATIONS Option 1 requires extensive recordkeeping and certification of all disposals. Each disposal would require a written certification of disposal or reclamation to be maintained for three years. For users of these bulbs which have occasional disposal/replacement requirements such as at a natural gas transmission compressor station, these recordkeeping/certification requirements would be unduly

burdensome and excessive given the risk posed to the environment. It is recommended that facilities which dispose of less than 350 bulbs (approximately equivalent to 100 kg/month of mercury) per month be exempt from the recordkeeping certification requirement but be required to maintain a written policy/procedure which ensures disposal in MSW landfills or reclamation at a permitted, licensed facility.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00174

COMMENTER Illuminating Engineering Soc. of N. Am.

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion

Recordkeeping/Transportation. The conditions proposed for the conditional exclusion appear limited. Since generators of spent lamps remain ultimately responsible for the disposition of the lamps, there is a need for recordkeeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements are necessary to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantify handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates that maintaining records may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements are not

applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

DCN FLEP-00180

COMMENTS Food Marketing Institute

SUBJECT EXCL6

COMMENT The certification and record keeping process for generators proposed for the conditional exclusion is generally acceptable to the supermarket industry, if it can be accomplished as a part of the regular contract instrument between the generator and the contractor or transporter. That is, the receipt or statement that is normally executed at the conclusion of a relamping should serve as the certification as long as it contains the requisite information. FMI has a concern, however, that under EPA's plan the generator is left holding all liability and has no protections, yet the contractor or transporter takes no regulatory responsibility. At a minimum, EPA should also require that the entity the generator contracts with for relamping and transportation must maintain records so that the final destination of spent lamps can be verified. The retention of regular receipts or bills of lading should suffice. In the case of the New Jersey "host" collection program, participating companies should be able to satisfy the certification and record keeping requirement by maintaining a copy of the shipment document for all the lamps collected, with their own notation of the quantity of lamps they contributed.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Under the universal waste rule, universal wastes must ultimately be managed either at a hazardous waste lamp recycling facility or a RCRA treatment or disposal facility. Subtitle C landfills receiving spent lamps are required to comply with all applicable Subtitle C management standards, including the operating requirements of 40 CFR 264.301 and the recordkeeping requirements in 40 CFR 264.309.

Although the final rule does not include additional record keeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00181

COMMENTS Exxon Chemical Americas

SUBJECT EXCL6

COMMENT ECA supports the Conditional Exclusion Option with the specified record keeping and certification requirements, as the best approach for safe and cost-effective disposal of mercury-containing lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-

made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00182

COMMENTER Eastman Kodak Company

SUBJECT EXCL6

COMMENT Having some form of record keeping for the disposal mercury-containing lamps may be appropriate to help track them to their destination at appropriate recycling or landfill facilities. However, such records should be no more burdensome than the typical records kept in the normal course of business. We question the value in having the proposed "certification" signed for every shipment. It is likely to only become another trivial item for the Agency to enforce upon. The certification also seems inappropriate for the minimal hazards posed by the mercury-containing lamps. A simple log of dates, quantities, and destination facilities for the shipments would be more realistic. This could easily be matched to the existing billing records of the receiving facility. The Agency has noted that it believes spent lamp generation is sporadic and may only occur every three or four years [5] [Footnote 5: 59 FR 38295]. Depending on the practices for managing lighting replacement, this may be the case for some smaller facilities, but it is definitely not the case at our larger facilities. Spent mercury-containing lamps are generated frequently, and shipments for treatment/disposal are made multiple times per year. Because of this generation rate, and the time and effort involved in locating an acceptable disposal facility, Kodak maintains a

continuous relationship with the disposal facility. This tends to make routine certification statements less important, and supports the use of a simpler log of shipments, or a one-time certification. Note that this whole concept of record keeping is predicated on the assumption that generators will be managing mercury-containing lamps separate from the normal solid waste stream. While this may be common practice now since the lamps are subject to hazardous waste management, once there is a conditional exclusion and the lamps are simply solid waste destined (in many cases) for a MSW landfill, there is little impetus to keep them separate. And if they are not kept separate there is probably not a good way to measure the amount of them in any one shipment. The generator might be tempted to estimate the number of lamps in a shipment of solid waste, but it would be difficult to "certify" the quantity therein.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to

some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations.

DCN FLEP-00183

COMMENTS Chemical Manufacturers Association

SUBJECT EXCL6

COMMENT The Conditional Exclusion Need Not Require Generators to Maintain Written Certifications. One of the two conditions of the proposed conditional exclusion is that generators of spent lamps maintain, for three years, certifications of the specific MSW landfill or reclamation facility where the lamps were sent. CMA submits that this requirement is unnecessary. As the Agency states in the preamble to the proposed rule, the existence of the proposed certification would not protect a generator from an enforcement action if the spent lamps were not actually disposed of or recycled in accordance with the exclusion. EPCs purpose is already adequately served by the existing RCRA requirement (40 C.F.R. ' 261.2(f)) that respondents in enforcement actions have the burden of substantiating any claimed waste exemption.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement

included in the proposed rule, but are more consistent with the universal waste rule.

The shipment tracking requirements, which are similar to the proposed certification requirement, are not duplicative of any existing recordkeeping requirements under RCRA. The documentation required under ' 261.2(f) must be maintained for materials that are excluded from the definition of solid waste. Under today's final rule, hazardous waste lamps are not excluded from regulation, therefore documentation under ' 261.2(f) does not apply.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00186

COMMENTER Building Owners or Managers Assn. Int.

SUBJECT EXCL6

COMMENT The condition to require generators to keep a record of the lamps shipped to management facilities is, in many cases, overly burdensome. Many hazardous waste generators have a contractual agreement with haulers and disposal facilities that meet Subtitle D or C requirements. This should be considered sufficient to demonstrate compliance with the conditions, without requiring the generator to incur the added expense of collecting bulbs separately, then counting and certifying their disposal.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions

under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00188

COMMENTS Westinghouse Electric Corporation

SUBJECT EXCL6

COMMENT However, Westinghouse does believe additional conditions should be incorporated into the conditional exclusion. For example, record keeping requirements for transporters should be enhanced to ensure lamps reach their intended destination.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions

under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the final rule does not include additional record keeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00188

COMMENTER Westinghouse Electric Corporation

SUBJECT EXCL6

COMMENT Option 1: Conditional Exclusion Certification Requirements (page 38294-5): The certification requirement is not necessary.

Instead, the EPA should simplify record keeping requirements.

Shipping receipts and invoices could satisfy these requirements and would minimize the burden on small quantity generators.

These records could clearly describe the number, type and destination of the lamps. Disqualifying a generator from eligibility for the exclusion for not maintaining the required documentation is too harsh and is inconsistent with other enforcement approaches. A penalty approach consistent with other existing record keeping regulations would be more appropriate.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

DCN FLEP-00188

COMMENTS Westinghouse Electric Corporation

SUBJECT EXCL6

COMMENT Group Relamping (page 38295): The EPA is proposing separate documentation be required for each shipment based upon its belief that most lamp generation is sporadic (every three to four years). This is not always the case, especially at large facilities. The EPA should assume that many large facilities, and even small facilities, will continue to change lamps as they burn out depending upon their lighting needs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

The Agency acknowledges that relamping at facilities will occur in various ways. Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under '261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator.

DCN FLEP-00191

COMMENTS Utility Solid Waste Activities Group

SUBJECT EXCL6

COMMENT C. The MSWLF Option Should Not Be Overburdened with Requirements and EPA Should Establish a De Minimis Exclusion USWAG emphasizes that the key to the success of the MSWLF option is that it be kept simple and unencumbered. The proposed requirement to prepare a certification and keep records appears to be reasonable.

RESPONSE

The Agency thanks the commenter for supporting the proposed conditional exclusion and the associated record keeping requirements. However, in today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors.

At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each

shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

DCN FLEP-00191

COMMENTS Utility Solid Waste Activities Group

SUBJECT EXCL6

COMMENT VII. THE MSWLF OPTION MUST NOT RESTRICT THE OPTIONS OF
CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS

EPA must make clear in the final rule that the Agency does not intend to abridge the existing exclusion from hazardous waste regulation for conditionally exempt small quantity generators ("CESQGs"). Under 40 C.F.R. ' 261.5, CESQGs may send their wastes to various facilities, including industrial solid waste landfills ("ISWLFs"), MSWLFs or other state approved facilities, without any specific record keeping requirements. In contrast, under proposed 40 C.F.R. ' 261.4(b)(16), to qualify for the MSWLF option, generators of lighting wastes must certify where and for what purpose the bulbs were sent (disposal or recycling), and must maintain records for three years from the date of each shipment of mercury-containing lamps. 59 Fed. Reg. at 38302 (citing proposed 40 C.F.R. ' 261.4(b)(16)). While USWAG believes that EPA did not intend to apply these extra qualification to CESQGs, [15] [Footnote 15: In fact, EPA cites the CESQG regulation as proof that the Agency has specified different requirements for generators of hazardous waste depending on the amount of hazardous waste generated per month. 59 Fed. Reg. at 38289.] we believe that this point should be clarified in the final rule: specifically, that the MSWLF option does not impose additional burdens on CESQGs and that generators can continue to manage wastes, including lighting wastes, in ISWLFs under the existing 40 C.F.R. ' 261.5 provisions.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management

requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under 40 CFR ' 261.5 are met. In addition, the required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator.

DCN FLEP-00192

COMMENTER Certified Maintenance Services, Inc.

SUBJECT EXCL6

COMMENT Certified Maintenance Services, Inc. is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00193
COMMENTER Sunset Lighting Services

SUBJECT EXCL6

COMMENT RECORD KEEPING/ TRANSPORTATION Our company has reservations with the limited conditions proposed for the conditional exclusions.

We may be ultimately responsible for the disposition of the lamps and would prefer the record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00196

COMMENTER American Lighting Association

SUBJECT EXCL6

COMMENT ALA is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste, our members remain ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00199

COMMENTER National Association of Electric Dist.

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion

Record keeping/Transportation We are uncomfortable with the limited conditions proposed for the conditional exclusion. We would prefer to see record keeping requirements for transporters to ensure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will also serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00201

COMMENTS WMX Technologies, Inc.

SUBJECT EXCL6

COMMENT Record keeping/Transportation As landfill owners and operators, we share responsibility for the ultimate management of mercury lamps and recommend that U.S. EPA establish record keeping requirements for generators and transporters to ensure delivery to designated management facilities and establish packaging requirements for storage and transportation to minimize environmental releases. Such requirements will ensure responsible downstream management and provide complete information about the wastes being handled.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management

requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00202

COMMENTS Union Camp Corporation

SUBJECT EXCL6

COMMENT RECORD KEEPING SHOULD NOT APPLY TO ON-SITE DISPOSAL U.C. is uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste, we remain ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters

to ensure delivery to designated off-site disposal on recycling facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management. No record keeping requirement should be required for on-site disposal into Subtitle D or equivalent landfill or an industrial landfill unless lamps originate from off-site non-company entities.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in

compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00207

COMMENTS City of Phoenix, AZ

SUBJECT EXCL6

COMMENT Certifying quantities disposed into a permitted landfill would be very difficult to administer. The City employs contractors for many demolition and renovation jobs. Tracking the disposal of the lamps to different disposal sites through various transporters would be very burdensome for City staff and contract coordinators.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the Agency is aware that the tracking requirement may be viewed as burdensome to

some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00215

COMMENTS Sterling Chemicals, Inc.

SUBJECT EXCL6

COMMENT EPA's proposed record-keeping requirement, however, may impose unnecessary paperwork requirements on facilities, like Sterling's, that may not do "mass relamping," but rather relamp on an as-needed basis. In such a case, the lamps should be able to be managed as any other Subtitle D waste, i.e. responsibly stored until the waste contractor removes the waste container for ultimate disposal. By 'responsibly stored,' Sterling means in a primary container or other package that would prevent either breakage or leakage from broken lamps outside of the container or package into the dumpster that is ultimately removed by the contractor. Requiring a separate inventory, however, of the number of lamps shipped to a Subtitle D facility does not make sense for a generator that disposes of lamps on an ad hoc basis. Unlike the Subtitle C requirements, there is no current manifest-type requirement for wastes sent to Subtitle D facilities. For certain generators, the paperwork involved with keeping track of how many lamps are in each dumpster of trash would be burdensome. EPA's proposal would establish yet another record keeping scheme, requiring manpower, resources, and contributing nothing to environmental protection. As an alternative, Sterling proposes that EPA allow generators that use only permitted MSW's or other equivalent (or more stringent) state-authorized landfills to calculate the number of lamps replaced on an annual basis from purchase records. Combined with the invoices from its waste haulers, the destination and quantity of spent lamps would be easy to calculate should EPA need the information. Sterling typically has long term contracts for its waste disposal, and thus the destination for a particular of waste does not change with any frequency. This suggestion would eliminate unnecessary and time-consuming (and thus resource-consuming) paperwork.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Under the universal waste rule, universal wastes must ultimately be managed either at a hazardous waste lamp recycling facility or a RCRA treatment and disposal facility. Subtitle C landfills receiving spent lamps are required to comply with all applicable Subtitle C management standards. Untreated hazardous waste lamps generated by handlers regulated under the universal waste rule may not be managed in Subtitle D landfills.

The Agency acknowledges that relamping at facilities will occur in various ways. Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. Facilities that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator.

DCN FLEP-00222

COMMENTS Columbus Southern Power & OH Power Co.

SUBJECT EXCL6

COMMENT It is our position that additional notification and record-keeping requirements should not be part of the conditional exemption.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates the fact that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00222

COMMENTS Columbus Southern Power & OH Power Co.

SUBJECT EXCL6

COMMENT CONDITIONAL REQUIREMENTS FOR SUBTITLE C EXEMPTION

CSP/OPC believes that there should be no further requirements for lighting waste, such as notification and record keeping requirements, than there currently are for other Subtitle D wastes. Lighting wastes are often disposed of in small quantities (i.e., when a bulb burns out) and these situations should not be subject to the notification of landfills and keeping detailed records for what would amount to a handful of bulbs. We further believe that even larger volumes of lighting waste, possibly resulting from a Green Lights replacement program, should not be subject to burdensome notification and record keeping requirements. These requirements should not be part of a conditional exclusion from Subtitle C for lighting waste. In addition to creating a disincentive to Green Lights programs, such requirements should not be necessary for lighting waste because they do not serve to protect the environment in any way. If the waste can be placed into a Subtitle D landfill, why is it necessary to keep records and notify the landfill in advance? What purpose are such requirements serving?

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other

shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement, is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years. The Agency has also found that participation in energy-efficient relamping programs will not be affected by today's rule.

DCN FLEP-00223

COMMENTER Owens-Corning Fiberglass Corporation

SUBJECT EXCL6

COMMENT 2. Owens Corning feels that the certification statement required by the conditional exclusion rule adds to industry's potential environmental liability. It is conceivable that mercury found in monitoring wells surrounding municipal solid waste landfills can be tracked to those facilities that have certified that they have discarded mercury containing light bulbs. Joint and several liability under Superfund would expose these facilities to considerable liability.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In the event that a disposal or recycling facility is determined to be a Superfund site, the Agency is required to gather information on all possible PRPs that have contributed to the contamination at the site. As the commenter acknowledges, all generators, regardless of their regulatory status under RCRA, could be PRPs if the site to which the generators send their waste becomes a Superfund site. The PRP search includes a number of search and information gathering mechanisms in addition to record keeping investigations. Therefore, the absence of a written certification under today's rule will not preclude any particular generator from being identified as a PRP. For additional information on the PRP search process, the commenter can contact EPA's Superfund Hotline at (800) 424-9346.

DCN FLEP-00224

COMMENTS Amtech Lighting Services

SUBJECT EXCL6

COMMENT Position on the Conditions of the Exclusion A. Record Keeping

Amtech Lighting Services takes the position as being a representative of the generators of the waste, and does not want to be responsible for the disposition of the lamps or the record keeping requirements. Such requirements should be the responsibility of the generators and the waste transporters.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions

under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

The universal waste handler must comply with the tracking requirements for shipments of hazardous waste lamps. Agreements established between generators of spent lamps and relamping companies may designate which entity will retain responsibility as the universal waste handler.

DCN FLEP-00236

COMMENTER Conservation Lighting, Inc.

SUBJECT EXCL6

COMMENT The Conservation Lighting Company is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion.

As generators of the waste and /or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interest of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00239

COMMENTS National Sign Association

SUBJECT EXCL6

COMMENT Finally, under Proposed Regulation 40 C.F.R. [Section] 261.4(b)(16) a generator would have to maintain a certification / record for each shipment of mercury-containing lamps. This record keeping function is not required of other solid wastes subject to "conditional exclusions" and should not be required of lamp generators. It should, therefore, be deleted from the requirements of the conditional exclusion. If it is not deleted, the effect will be to arbitrarily increase the administrative burden on lamp waste generators. NSA Members in particular will be adversely affected. Sign maintenance generates far fewer

lamps than general- interior maintenance or relamping programs and the administrative costs required by EPA's proposed rule will be have to be spread over far smaller volumes of waste lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Although the Agency appreciates that the tracking requirements may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirements, are not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed under full Subtitle C requirements. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only accumulate a significant quantity of spent lamps, and therefore be subject to the management standards for large quantity handlers of universal waste, once every few years.

CESQGs are not subject to the universal waste regulations, including the notification and tracking requirements. However, these generators may choose to comply with the universal waste

standards on a voluntary basis. Generators that generate greater than 100 kg of hazardous waste in a calendar month become subject to the universal waste regulations for the management of any amount of spent hazardous waste lamps. For example, a generator that generates over 100 kg of spent hazardous waste solvent, and 50 kg of spent fluorescent lamps would be subject to the small quantity generator standards for the solvents and the small quantity handler standards in the universal waste regulations for fluorescent lamps.

DCN FLEP-00244

COMMENTER Air Products and Chemicals, Inc.

SUBJECT EXCL6

COMMENT We recommend that the paperwork requirements be kept to a minimum, i.e., only records needed to protect human health and the environment be required. Clear and concise regulatory requirements are essential because there is a large number of generators who may be affected by this rule.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the quantity of lamps shipped and the date that the shipment left the handler's facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site. The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Small quantity handlers are not required to track shipments of universal waste. The record keeping requirements and the definition of a large quantity handler of universal waste represent reduced, streamlined standards over the hazardous waste management standards previously imposed upon generators and transporters of hazardous waste lamps.

DCN FLEP-00246

COMMENTS Efficient Lighting and Maintenance, Inc.

SUBJECT EXCL6

COMMENT We are uncomfortable with the limited conditions proposed for the conditional exclusion. We may ultimately be responsible for the disposing of the lamps and would prefer record keeping requirements for transporters that would insure delivery to designated destination facilities and packing requirements for storage and transportation to minimize environmental releases. This will protect the interests of the generators.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in

compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00251

COMMENTS Nelson Electric Company

SUBJECT EXCL6

COMMENT We also feel that there is a lack of record keeping requirements for the transportation of spent lamps. It is in our best interest and our customers that we insure delivery to designated facilities and proper packaging requirements for transporters.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that

prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00257

COMMENTS Tri-County Lighting Services, Inc.

SUBJECT EXCL6

COMMENT Simplified record keeping will ensure viable enforcement programs and protection for generators. Hazardous waste records requirements are overly troublesome.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. The record for each shipment must include the name and address of the facility to which the lamps are being shipped, the quantity of lamps shipped and the date that the shipment left the handler's facility. Records must be kept for three years from the date that the waste is received at the facility or sent off-site.

The requirement that large quantity handlers track shipments of lamps received or sent off-site is similar to the proposed certification requirement. However, in the final rule the Agency decided to promulgate management standards for spent lamps that are consistent with the final requirements for universal wastes.

Although the Agency appreciates the fact that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the

final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00258

COMMENTS Colorado Lighting, Inc.

SUBJECT EXCL6

COMMENT Although we are somewhat uncomfortable with the limited conditions proposed for this conditional exclusion, because of generators of the waste, our company may be responsible for the disposition of lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated facilities and packaging requirements for storage and transportation to minimize the environmental releases. Such requirements would serve to protect the interest of the generators through responsible management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small

quantity handlers are not required to keep records of shipments of universal waste lamps. In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00267

COMMENTER ABD Lighting Management Co., Inc.

SUBJECT EXCL6

COMMENT ABD Lighting Management Company is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion.

As generators of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best

way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00264

COMMENTS Lighting Maintenance, Inc.

SUBJECT EXCL6

COMMENT Lighting Maintenance is uncomfortable with the limited condition proposed for the conditional exclusion. As generator of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destinations facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream managements.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR

Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00266

COMMENTS Power Savers, Inc.

SUBJECT EXCL6

COMMENT CONDITIONS OF EXCLUSION We strongly believe transporters must

retain strong record keeping to insure us, the generators, of proper handling and disposal of these products.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00270

COMMENTS The Barney Roth Company

SUBJECT EXCL6

COMMENT The Barney Roth Company is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00286

COMMENTS Creative Lighting, Inc.

SUBJECT EXCL6

COMMENT Another area of concern for Creative Lighting is in the record keeping and transportation safeguard requirement to be used in lamp disposal. We may be doing proper handling, shipping and disposal only to have improper handling during transportation or subsequent record keeping expose my firm in future liability and expose the properly complying generators to future liability

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00289

COMMENTER Fluorescent Maintenance Company

SUBJECT EXCL6

COMMENT The conditional exclusion should state that records be kept by the transporters to be sure that delivery and packing requirements are met along the way.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00291

COMMENTS A-1 Lighting Service, Inc.

SUBJECT EXCL6

COMMENT As far as record keeping goes we would prefer to see transporters to insure proper delivery to facilities.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

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DCN FLEP-00293

COMMENTS American Airlines, Inc.

SUBJECT EXCL6

COMMENTS American would like to emphasize that it does not believe that most users of MCLs conduct mass or phased relampings. More often than not, MCLs are replaced by attrition. Attrition replacement lends itself to disposal with the remainder of the nonhazardous waste stream. Regardless of the ultimate method chosen by EPA for regulating MCL disposal, American believes that record keeping requirements should be kept to a bare minimum. Because American believes that most relamping takes place by attrition and that most generators can dispose of the lamps with their other nonhazardous wastes, records relating to each and every waste shipment would be unnecessary and excessive.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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The Agency acknowledges that relamping at facilities will occur in various ways. Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00294

COMMENTER El Paso Natural Gas Company

SUBJECT EXCL6

COMMENT Conditional Exclusion Certification Statement Management of spent mercury-containing lamps under the conditional exclusion should be less burdensome than management of hazardous waste to accomplish EPA's stated goal of encouraging use of mercury-containing lamps. Requiring a certification for each

shipment of spent mercury-containing lamps adds a burden equal to that of manifesting each shipment of a hazardous waste.

However, El Paso recognizes the need to keep records of shipments of spent lamps. El Paso recommends that EPA require records of shipments without the proposed certification.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00295
COMMENTS Texas Instruments, Inc.

SUBJECT EXCL6

COMMENT TI would also like to make the following more specific comments on the proposed conditional exclusion: TI believes that the proposed requirement to provide certification as to the specific numbers of lamps consigned to a specific transporter for disposal to a specific facility for each shipment, is burdensome and restrictive. TI believes that this requirement would only tax industry to separately collect its spent lamps for purposes of counting and management, possibly creating greater safety and environmental concerns with additional handling and storage. TI fully understands EPA's concern with maintaining some control mechanism in place. However, TI believes there are better ways to accomplish the same objective. TI believes that like TI, most large companies have contractual relationships in place with waste management companies and are already controlling final disposition of their waste. TI believes that these types of contractual agreements can provide the control mechanism EPA is seeking. TI suggest that EPA adopt language that would allow these and other similar control tools in place of certification of each shipment of spent lamps. Further, if accounting for the number of lamps is truly an issue, TI believes that the same objective can be accomplished by the use of purchase records.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00296

COMMENTS State of Ohio EPA

SUBJECT EXCL6

COMMENT Mercury recycling data - A record of destination would be useful to U.S. EPA and others in calculating the quantity of mercury-containing lamps being recycled. However, record keeping activities could become particularly burdensome to regulate lamp generators which do not prescribe to "group" relamping. In addition, the record keeping scheme would require generators to frequently repeat record keeping activities because record keeping activities would need to be completed for each shipment of mercury-containing lamps. Since records would be kept by the generator and not submitted to the US EPA (or state agencies) for yearly calculation, it would be difficult to calculate the quantity of lamps being recycled. The ability to calculate recycling totals should be a major component of any record keeping activity.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly.

EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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The Agency acknowledges that relamping at facilities will occur in various ways. Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years. EPA believes that estimates of the quantity of lamps recycled may be more accurately obtained by requesting such information from lamp recyclers.

DCN FLEP-00296

COMMENTER State of Ohio EPA

SUBJECT EXCL6

COMMENT Further, without adequate tracking of lamps it will be difficult to evaluate the soundness of the exclusion, should a sunset provision be applied.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that

its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

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The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency and the Agency's own studies and analyses that were conducted since the hazardous waste lamps rulemaking was proposed provide adequate justification to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency may re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00300

COMMENTS ElectricSave Company

SUBJECT EXCL6

COMMENT D POSITION ON THE CONDITIONS OF THE EXCLUSION Record

keeping/Transportation The ElectricSave Company is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated destination facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management

RESPONSE

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Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-L0006
COMMENTER National Food Processors Association
SUBJECT EXCL6

COMMENT NFA suggests the Agency clarify the record keeping requirement of the conditional exclusion option. The preamble indicates that the Agency is proposing separate documentation for each shipment of used lamps. NFA recommends the Agency identify a threshold number of lamps that would trigger the record keeping requirement. Requiring records to be kept for a relatively few lamps that might be accumulated between major relamping cycles would encourage longer storage periods than might otherwise be necessary with a resulting increased potential for breakage.

RESPONSE

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waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-L0007

COMMENTS Office of the Under Secretary of Defense

SUBJECT EXCL6

COMMENT 2. In order to qualify for the exclusion under Option 1 of proposed regulation 40 CFR 261.4(b)(16), a generator would be required to maintain a certification for each shipment of mercury-containing lamps. This certification is essentially a record keeping function proposed as a mechanism for verifying that the conditions of the exclusion have been met. It is worth noting that other solid wastes subject to existing "conditional exclusions" are not required to maintain a certification/record to verify that conditions of the exclusion have been met. [e.g. used chlorofluorocarbon refrigerants, provided that the refrigerant is reclaimed for further use (40 CFR 261.4(b)(12)), and non-terne plated used oil filters not mixed with listed hazardous waste, if hot-drained using one of the specified methods (40 CFR 261.4(b)(15)).] Additionally, under current hazardous waste regulations, a conditionally exempt small quantity generator may deliver hazardous waste to a facility permitted, licensed, or registered by a State to manage municipal or industrial hazardous waste or to a reclamation facility without maintaining any certification/record to verify the hazardous waste was delivered to such a facility. Therefore, a certification requirement for mercury-containing lamps is inconsistent, unnecessary, and unwarranted, and should be deleted from the exclusion conditions. The effect of not deleting the certification requirement from the exclusion conditions is overwhelming and unnecessarily burdensome on both the regulated and the regulating communities. If regulation 40 CFR 261.4(b)(16) is adopted as a final rule inclusive of the certification requirement, every person generating even a single spent mercury-containing lamp (unless the spent lamp is a household waste or is determined to be nonhazardous) will be required to maintain a certification. For hundreds of thousands of businesses, maintaining required certifications for three years or making hazardous waste determinations on each spent lamp would be administratively over burdensome and a great

expense for little or no demonstrable purpose. It would present considerable probability of inequities in enforcement action by regulators since complete monitoring for compliance of every business imaginable would be a practical impossibility. Note is made that a conditionally exempt small quantity generator's hazardous waste (which may include a single spent lamp) is not only subject to regulation under 40 CFR parts 262 through 266, 268, 270 and 124, but also to 40 CFR part 261, to include the certification requirement as proposed. Consequently, a conditionally exempt small quantity generator could, for example, generate 1 kilogram per month of spent lamps which requires a certification, plus 99 kilograms per month of "other" hazardous waste which does not require any kind of certification/record.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of

hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00186

COMMENTER Building Owners or Managers Assn. Int.

SUBJECT EXCL6

COMMENT CONCLUSION The Building Owners and Managers Association

International strongly recommends that EPA implement the proposed "conditional exclusion" for mercury-containing lamps.

BOMA also recommends that the proposed handling requirements not be included as a condition for the exclusion, and that any recordkeeping requirements be as streamlined as possible to assure full compliance.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard

business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00203

COMMENTS American Gas Association

SUBJECT EXCL6

COMMENT In addition we recommend that EPA eliminate the record keeping requirements of the lamps shipped to management facilities. An exclusion that entails a paperwork burden is of little benefit the regulated community.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at fully-regulated hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00215

COMMENTS Sterling Chemicals, Inc.

SUBJECT EXCL6

COMMENT B. Conditions to the Exclusion. EPA proposes to impose two conditions on the exclusion from Subtitle C for mercury-containing lamps: (1) that the lamps be disposed in State or Tribe-permitted MSW landfills, or sent to State-permitted, licensed or registered reclamation facilities, and (2) that a record be kept by the generator for each shipment of lamps sent off-site to management facilities. Sterling supports the first condition, but offers an alternative to the record keeping condition proposed by EPA.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00171

COMMENTS Monsanto Company

SUBJECT EXCL6

COMMENT C. The Conditional Exemption Approach Should be Streamlined. 1.

No Written Certification Requirement Should be Imposed With Each Shipment. EPA in this proposal has asked for comment on whether generators should be required to keep a record of the lamps shipped to management facilities. Further, EPA suggests that this record should be kept for 3 years. EPA suggests that this is a "mechanism for verifying that the conditions of the exclusion have been met." (59 FR 38295, 7/27/94) The Agency should consider that the conditions of the exclusion are in fact minimal and that there is almost no incentive for the generator to do anything but meet the conditions. In fact, it should be noted that the municipality or other governmental entity that operates waste disposal facilities is in the best position to assure compliance, through ordinances, etc. as required (and if required). Record keeping by the generator should not be required as it serves almost no purpose, while at the same time imposing regulatory burden. If record keeping is required at all, it should be limited to generators of very large shipments of Hg-lamps.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate

more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP-00258

COMMENTS Colorado Lighting, Inc.

SUBJECT EXCL6

COMMENT Although we are somewhat uncomfortable with the limited conditions proposed for this conditional exclusion, because of generators of the waste, our company may be responsible for the disposition of lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated facilities and packaging requirements for storage and transportation to minimize the environmental releases. Such requirements would serve to protect the interest of the generators through responsible management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the

environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00302

COMMENTS Conserve Electric Company, Inc.

SUBJECT EXCL6

COMMENT The Conserve Electric Company, Inc. is somewhat uncomfortable with the limited conditions proposed for the conditional exclusion. As generators of the waste and/or representatives of the generators of the waste, our company may be ultimately responsible for the disposition of the lamps and would prefer to see record keeping requirements for transporters to insure delivery to designated facilities and packaging requirements for storage and transportation to minimize environmental releases. Such requirements will serve to protect the interests of the generators in responsible downstream management.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00303
COMMENTER IllumElex Corporation

SUBJECT EXCL6

COMMENT IllumElex Corporation is comfortable with the limited conditions for the conditional exclusion. Our company may be held accountable, as the generator or the representative of the generator, for the disposition of the lamps and would like to see the record keeping requirements for transporters to insure that the delivery to facilities and packaging requirements for transportation and storage to minimize environmental releases. This would only enhance the protecting the interest of responsible generators.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

In addition, today's final rule amends the universal waste rule to include specific management standards for handlers of hazardous waste lamps. These standards include storage/accumulation and packaging requirements. Handlers must store lamps in a manner that is protective and that prevents releases to the environment. Prior to shipping spent hazardous waste lamps off-site, handlers must package lamps to prevent breakage of lamps during transport. Packaging also must prevent releases to the environment in the event that lamps are inadvertently broken during

storage and shipment. Handlers of hazardous waste lamps may accumulate lamps on-site in compliance with the storage and packaging requirements for up to one year.

Although the final rule does not include additional recordkeeping requirements for transporters of spent hazardous waste lamps, nothing in the rule precludes generators from entering into an agreement with a transporter to provide additional documentation of shipment acceptance and delivery.

DCN FLEP-00234

COMMENTS Minnesota Mining and Manufacturing (3M)

SUBJECT EXCL6

COMMENT 4. 3M supports the certification option to document compliance with the final ruling. EPA must make every effort to minimize technical and paperwork requirements in order to make lamp collection more efficient and economical. As a generator, 3M feels that it is unreasonable, and unnecessary, to track individual lamps from point of generation to the final destination facility (recycling facility, landfill, etc.). 3M agrees with the proposal to provide a written certification statement with each shipment, that documents a generator's compliance with the final ruling.

RESPONSE

In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

Although the Agency is aware that the tracking requirement may be viewed as burdensome to some generators, the Agency points out that the final rule, including the tracking requirement is not applicable to conditionally-exempt small quantity generators. In addition, the final rule represents a significant reduction in the burden imposed upon fully-regulated generators compared to the previous requirement that spent hazardous waste lamps be managed as under full Subtitle C hazardous waste regulations. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

DCN FLEP- 00175

COMMENTS AT&T

SUBJECT EXCL6

COMMENT The Agency requests comments regarding the recommended documentation certification by the generator for each shipment of lamps to demonstrate compliance with the exclusion conditions. AT&T does not object to this level of certification.

RESPONSE

The Agency thanks the commenter for stated its support of the proposed certification requirement. In today's final rule, EPA is including spent hazardous waste lamps within the scope of the universal waste rule. The universal waste rule was established to provide a streamlined set of management standards for certain hazardous wastes that are widely generated by a diverse universe of generators. Under the universal waste rule, generators, collectors, and transporters of hazardous waste lamps are subject to a reduced set of waste management standards that are protective, while reducing the burden to generators and collectors. At the same time, the universal waste rule ensures that spent lamps are ultimately managed at lamp recycling facilities or at hazardous waste treatment and disposal facilities. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Under the final rule, large quantity handlers of universal waste, or those persons that accumulate more than 5,000 kg of universal waste at any time, must notify EPA of their universal waste management activities. A large quantity handler also is required to keep a record of each shipment of universal waste received and each shipment sent off-site. EPA is not dictating the type of records that must be obtained by large quantity handlers. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. However, records must be kept for three years from the date that the waste is received at the handler site or sent off-site. Small quantity handlers are not required to keep records of shipments of universal waste. The tracking requirements promulgating in the final rule are similar to the certification requirement included in the proposed rule, but are more consistent with the universal waste rule.

DCN FLEP-00166

COMMENTS American Electric Power Service Corp.

SUBJECT EXCL6

COMMENT d. Additional paperwork requirements are especially unwarranted for Conditionally Exempt Small Quantity Generators. The comments stated above in c. are even more compelling for conditionally exempt small quantity generators (CESQGs) defined in 40 CFR 261.3. As EPA has proposed ' 261.4(b) (16), the recordkeeping requirements could be read as applying to all generators, regardless of volume of hazardous waste generated. This is because Section 261.5 does not specifically exempt CESQGs from Part 261 requirements. Previously there was no need to do so because aside from ' 261.5 there were no substantial requirements applicable to CESQGs in Part 261. However, proposed ' 261.4(b)(16) would create a substantive recordkeeping requirement. If EPA does not make the changes in the final rule suggested above, at a minimum, EPA should specifically exclude CESQGs from any requirements.

II. IT IS INCORRECT TO PRESUME THAT MOST FACILITIES ARE NOT AFFECTED BY EITHER OPTION SIMPLY BECAUSE THEY DO NOT GENERATE ENOUGH HAZARDOUS WASTE OR ARE CESQGs.

EPA states that 'Mercury-containing lamps (light bulbs)... must be managed as hazardous waste unless they are... generated by an exempted small quantity generator" (see 59 ER 38288, Column 1). EPA further states that "all generators of spent lamps that exhibit the toxicity characteristic may not have to manage those lamps as hazardous waste" and "Conditionally-exempt small quantity generators... may elect to send their wastes to a landfill or other facility approved by the State for industrial or municipal non-hazardous wastes (see 59 ER 38289, Column 1). These statements are correct based on Federal rules. However, as U.S. EPA is aware, Federal rules are not the effective set of RCRA regulations in states provided the state has primacy. The impact of this is discussed below. The language which states that "CESQGs may manage their hazardous waste in.... a landfill or other facility approved by the State for industrial or municipal non-hazardous wastes..." is notably absent from several state RCRA waste management rules. In the absence of anything but a complete exemption, facilities who are not accustomed to generating any hazardous waste (e.g., non-household buildings and facilities, including offices, courthouses, police and fire stations, schools, restaurants, etc.) could now be generating hazardous waste in the form of spent lamps. Though these facilities do not generate significant quantities of lighting waste, they are nonetheless affected

(whether they realize it or not) because of the absence of the language mentioned above from individual state RCRA rules. Given this, we believe that the 47,000 to 64,000 facilities EPA estimates will be affected (and thus the 310 to 380 million lamps at these facilities) underestimates the impacts. We request that EPA reevaluate the Regulatory and Economic Impact Analyses sections of the preamble considering the fact that many generating facilities operate under state RCRA rules which may not present the same handling options as Federal rules. Furthermore, in the preamble to the final rule, EPA should clearly state that relaxation of the previous controls on lighting waste is not only environmentally sound, but good public policy as well because it more rationally directs hazardous waste compliance resources. EPA should add that it is EPA's strong recommendation that states make corresponding changes in their regulations immediately following U.S. EPA's lead.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements, but also allows the Agency to set specific management standards to control potential emissions.

Although EPA has determined that hazardous waste lamps can safely be subject to management requirements that are less stringent than those of full Subtitle C, the Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. It is clear to the Agency that mercury poses an environmental threat and that man-made sources of mercury emissions should be reduced or, where inevitable, managed properly. EPA therefore gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of hazardous waste lamps. The Agency is convinced that the universal waste approach is the best way to further these goals. The Agency's analysis predicts that uncontrolled mercury emissions under the conditional exclusion approach are likely to be somewhat greater than under the universal waste approach promulgated in today's rule.

In today's rule, the Agency is adopting the universal waste tracking requirements in 40 CFR Part 273 for hazardous waste lamps. The universal waste rule includes a basic recordkeeping requirement to track waste shipments arriving at and leaving from handlers of large quantities of universal waste (i.e., those who accumulate greater than 5,000 kg total universal waste at one time). The required records may take the form of a log, invoice, manifest, bill of lading, or other shipping document and are to be maintained for three years. The Agency believes that standard business records that would normally be kept by any business will fulfill this requirement. Small quantity handlers are not required to keep records of shipments of universal waste lamps.

Today's final rule affects hazardous waste lamps previously subject to full hazardous waste regulation under Subtitle C. The Agency notes that handlers that generate less than 100 kg of hazardous waste per month (approximately 350 four foot lamps) are not subject to the universal waste rule provided that the requirements for conditionally exempt small quantity generators under ' 261.5 are met. The required tracking requirements are less burdensome than the current recordkeeping requirements for generators of hazardous waste under Subtitle C, since the current hazardous waste regulations require a manifest be sent with each shipment of hazardous waste and copies maintained by the generator. Given that the life span of hazardous waste lamps is approximately three to four years, businesses that participate in mass relampings may only generate large quantities of lamps once every few years.

The commenter is correct that states are not required to adopt the CESQG exclusion. However, EPA notes that many states have adopted the universal waste approach and have either added spent lamps to their universal waste programs or are planning to do so in the future.