

US EPA ARCHIVE DOCUMENT

DCN FLEP-00022

COMMENTS Cooper Industries

SUBJECT STAUTH

COMMENTS Cooper operates in many different states. If the EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion and as states move to adopt their own regulatory schemes, we face the prospect of spent lamps being regulated in a wide variety of ways across the country. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to Green Lights programs and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the Green Lights goal of reducing air emissions from electric power generation through implementation of broad-scale, energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

In response to the commenter's concern for the Green Lights program, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in these types of energy-efficient lighting programs.

DCN FLEP-00023

COMMENTS Kmart Corporation

SUBJECT STAUTH

COMMENT Kmart Corporation operates in all fifty states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion and as states and local governmental authorities respond by adopting their own regulatory schemes, we face the prospect of spent lamps being regulated to differing degrees. Such regulatory variations makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because the rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined

standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs.

DCN FLEP-00026

COMMENTS Thomas Industries, Inc.

SUBJECT STAUTH

COMMENT Our company has had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that we are in compliance. EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy-efficient relamping by promulgating a conditional exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

Today's rule ensures protection of the environment while reducing the regulatory burden for generators previously required to manage spent lamps in accordance with the full Subtitle C hazardous waste regulations. Generators of spent hazardous waste lamps are now subject to reduced regulatory requirements which provide a simple and consistent management scheme to facilitate the proper disposal or recycling of hazardous waste lamps.

This final rule provides a uniform approach for the management of spent hazardous waste lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective only in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states since the requirements are less stringent.

The requirements promulgated will become effective in authorized states when the individual state revises its solid waste management program and obtains authorization for the revisions; however, the Agency will encourage states to adopt regulations equivalent to today's rulemaking. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00026

COMMENTS Thomas Industries, Inc.

SUBJECT STAUTH

COMMENT Position on Need for Uniform National Approach and Speedy EPA

Action Our company operates in many different states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, we face the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely, difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because the rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs.

DCN FLEP-00032

COMMENTS Niagara Mohawk

SUBJECT STAUTH

COMMENT 14. As pointed out in the proposed rule, authorized states would not be required to modify their programs to adopt regulations consistent with either federal alternative. It is strongly recommended that the EPA encourage the states to adopt such streamlined management programs. Without states concurrence, the companies are put into a position where they are not afforded the opportunity to use more flexible approaches to management of the lighting waste as is being proposed by the EPA.

RESPONSE

The Agency agrees with the commenter and strongly encourages states to adopt today's rule and submit to EPA the program modification for approval. The Agency is encouraged by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00062

COMMENTS Phillips Petroleum Company

SUBJECT STAUTH

COMMENT Since this would not be a HSWA regulation, it would not be effective in states that have authorization for the base (non-HSWA) portion of the RCRA program, until promulgated by the individual states. Further, because this would be a less stringent regulation, a state would not be required to adopt the provision, leaving to its discretion the decision whether or not to allow the disposal of mercury-containing lamps in permitted, licensed or registered landfill facilities.

RESPONSE

Today's amendments to the hazardous waste regulations are not effective in authorized States since the requirements are not being promulgated pursuant to HSWA. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be

effective until the State revises its program to adopt equivalent requirements under State laws. The amendments in today's rule are not more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, the Agency strongly encourages them to do so. In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, States are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

DCN FLEP-00070

COMMENTS Univ. of Texas Office of Env. Affairs

SUBJECT STAUTH

COMMENT UT encourages the EPA to urge the states to also exclude mercury-containing lamps from state hazardous waste regulations.

If EPA is clear that the reduced regulation is based on sound science, states will be less likely to adopt unnecessary rules that more strictly regulate this waste stream.

RESPONSE

Today's rule adds hazardous waste lamps to the universal waste regulations. The Agency is encouraged by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Although the states don't have to adopt today's rule, EPA encourages the states to do so. EPA believes that this new streamlined approach to the management of hazardous waste lamps will contribute to more efficient and effective State programs.

DCN FLEP-00076

COMMENTS The Southland Corporation

SUBJECT STAUTH

COMMENT The Southland Corporation operates in many different states. If

EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, Southland faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement

of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs.

DCN FLEP-00078

COMMENTS Tennessee Valley Authority

SUBJECT STAUTH

COMMENT State regulation of lamps - We are concerned that individual states will issue regulations for lighting waste that are different from EPA's. Inconsistencies between states will cause substantial problems for TVA because we have facilities in seven states. Differing state regulations will make it difficult to consolidate these wastes and increase the costs and environmental risks in dealing with waste lamps. Implementation of the Green Lights program will also be adversely impacted. EPA

should strongly encourage states to adopt EPA's waste lamp regulations.

RESPONSE

The Agency appreciates the challenges faced by entities operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because the rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

In response to the commenter's concern for the Green Light's program, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in these types of energy-efficient lighting programs due to the fact that the final rule greatly reduces the waste management costs for lamps, compared to the costs associated with the current full Subtitle C management standards.

DCN FLEP-00081

COMMENTS Family Dollar Stores, Inc.

SUBJECT STAUTH

COMMENT We have had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that we are in compliance. EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy-efficient relamping by promulgating a conditional exclusion.

Our company operates in thirty-five (35) states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, we face the prospect of spent lamps being regulated in a wide variety of

different ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because the rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a

reasonable time period. The Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs.

DCN FLEP-00082

COMMENTS Square D Company

SUBJECT STAUTH

COMMENT 4 .The hazardous waste listing is inconsistent with many state programs. Comments on the Need for a Quick Uniform National Approach Our organization operates in many states. If EPA does not exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, we face the prospect of spent lamps being regulated in a wide variety of ways across the county, as states move to adopt their own regulations. Such variation makes it very difficult to design and implement company- wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. A quick uniform national decision on conditional exclusion is recommended to preclude the Agency from delaying the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force States to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for States to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, States to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in these types of energy-efficient lighting programs.

DCN FLEP-00083

COMMENTS Unenco Services, Inc.

SUBJECT STAUTH

COMMENT Our company has had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that we are in compliance. EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy-efficient relamping by promulgating a conditional exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

This final rule provides a uniform approach for the management of spent hazardous waste lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program. The requirements promulgated today will become effective in authorized states until the individual state revises its solid waste management program and obtains authorization for the revisions; however, the Agency will encourage states to adopt regulations equivalent to today's rulemaking. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN SCSP-00121

COMMENTS American Electronics Association

SUBJECT STAUTH

COMMENT However, under current Texas Water Commission rules, the limited

paperwork and permitting exemptions that the EPA proposes for generators sending their wastes to consolidation or disposal facilities would not be applicable absent equivalent action and affirmation of such rules by the TWC. Thus, we urge the TWC to pursue the EPA's proposed regulatory scheme, as expanded to include mercury containing light bulbs, while simultaneously providing for similar exemptions from manifesting requirements when sending either hazardous or Class 1 non hazardous wastes, as determined by the generator, to a consolidation point. This may be accomplished any number of ways. One such method for achieving this result would be to classify such waste bulbs as a Class 2 nonhazardous waste when being sent to a regulatory-defined consolidation point. Another option would be to list specifically such waste bulbs under the Specific Industrial Waste Exceptions, at 31 TAC 335.508.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In particular, today's final rule does not require the use of the hazardous waste manifest for shipments of universal waste lamps.

Today's amendments to the hazardous waste regulations are not effective in authorized states such as Texas, because these requirements are less stringent than the current Federal regulations. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements and obtains authorization. Although authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule, the Agency strongly encourages them to do so.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs.

DCN FLEP-00123

COMMENTS W.R. Grace and Company

SUBJECT STAUTH

COMMENT Our company operates in many states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to

finalize a "Conditional Exclusion," we face the prospect of spent lamps being regulated in a wide variety of ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00130

COMMENTS U.S. Department of Energy

SUBJECT STAUTH

COMMENT VI. State Authority (59 FR 39297) The conditional exclusion and the universal waste management system would not be HSWA regulations and thus would not be immediately effective in

authorized states. Because EPA considers these regulations to be less stringent than the existing Federal regulations, authorized states would not be required to modify their programs to adopt an exclusion of mercury-containing lamps from the hazardous waste system or to adopt a universal waste management system for lamps. Section 3009 of RCRA allows States to impose more stringent regulations than the Federal program. The RCRA statute does not define "more stringent," which leaves the term subject to some interpretation. DOE recommends that in assessing stringency, EPA must first determine regulatory goals. Modification of the hazardous waste system to adopt an exclusion for mercury-containing lamps could result in decreased mercury air emissions. This would result in greater protection of human health and the environment. If "stringency" is defined in terms of protectiveness, as opposed to regulatory burden, adoption of an exclusion that would encourage handling of lamps in a way that reduces air emissions could be defined as more stringent thereby necessitating adoption by the states. RCRA also requires State RCRA programs to be consistent with the Federal program. The failure of some states to adopt certain changes to the hazardous waste regulations raises consistency issues that EPA needs to address. In this case, if only a few States adopt an exclusion for mercury-containing lamps, mercury-containing lamps could become concentrated in the municipal solid waste landfills of these States. EPA's risk assessment does not address this possibility.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under State laws and obtains authorization for the revisions. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, the Agency strongly encourages them to do so.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

Although the RCRA statute does not define the term "stringent," much guidance exists on the status of new hazardous waste regulations for purposes of the state authorization process. Based on this guidance, EPA has determined that today's final rulemaking is less stringent than the current regulations because it moves hazardous waste lamps from regulation under full Subtitle C to regulation under the universal waste program; therefore, authorized states are not required to adopt equivalent regulations.

DCN SCSP-00140

COMMENTER Advanced Environmental Recycling Corp.

SUBJECT STAUTH

COMMENT State Concerns. Currently, there is considerable uncertainty among governmental officials regarding fluorescent light management and disposal. A number of state officials (representing more than ten states) were interviewed by the Consultant during the week of May 3-10 1993. Many were not in favor of allowing regulated generators to dispose of hazardous lamps in the municipal waste stream. Several expressed support for including fluorescent bulbs in the final rule, while some also expressed varying degrees of interest in facilitating fluorescent light bulb recycling. Results of the interviews are summarized below. Those officials most supportive of efforts to properly manage fluorescent lamps were from states where concerns regarding mercury in the environment were high. These states include California, Florida, Wisconsin, and Minnesota. Florida and California each have passed laws banning the landfill disposal of fluorescent lights, while Minnesota has legislation pending to keep fluorescent lights out of the municipal waste stream (see Exhibit E, F, and G) Wisconsin, Massachusetts, Indiana and Rhode Island are in the process of issuing policy guidance directed at reducing disposal of fluorescent lights in the municipal waste stream (see Exhibit H, I, J and K) . Illinois recently conducted an investigation to decide whether or not to include fluorescent lights in household hazardous waste collection programs (see Exhibit L).

RESPONSE

The Agency thanks the commenter for the information regarding variations in state regulations and policies. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, the Agency strongly encourages them to do so.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

DCN FLEP-00146

COMMENTER Sierra Club/North Star Chapter

SUBJECT STAUTH

COMMENT However, a significant percentage of the mercury contaminating Minnesota waters comes through air deposition from sources outside the state. Thus it is critically important that there be uniform national regulations to minimize the amount of mercury escaping from waste lamps into the environment, and the EPA should not allow states to opt out of strict standards for such lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. The Agency believes that some controls for the management of spent lamps are necessary but under a more simple, streamlined approach than the full Subtitle C program. The universal waste structure is more appropriate for the numerous, widely varied universe of spent lamps handlers and should result in better compliance.

This final rule provides a uniform approach for the management of spent hazardous waste lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions.

DCN SCSP-00146

COMMENTS Advanced Environmental Recycling Corp.

SUBJECT STAUTH

COMMENT State Consistency - As detailed throughout this document, one of the major problems associated with the effective handling of waste fluorescent lamps is interpretation inconsistency through the Federal government as well as individual states. AERC, as well as many of the states, are concerned that unless there is a viable directive from Washington, D.C., there will continue to be major problems amongst the states relating to this issue. As an example, the state of Florida, as you know, has passed legislation for the comprehensive, effective management of waste mercury products. Fluorescent lamps are included in this legislation. Florida's justification for this legislation and detail associated on the extent of their problems has highlighted that Florida's problem clearly goes beyond the boundaries of Florida, as airborne mercury levels are migrating into Florida from other states. Therefore, Florida's legislation will only correct mercury emissions that are generated in Florida. Florida will have to rely on sound environmental policy from other states to complete their program. In addition, states bordering Minnesota took substantial action since they realized fluorescent lamps were ending up in their landfills. If fluorescent lamps do not pose a major problem, why would these states have to take such action? This is another obvious rhetorical question. It is clearly the role of the USEPA to set sound direction for all environmental programs while allowing the states some flexibility to manage their own programs. This is an area that truly requires direction from the USEPA. It is the opinion of AERC that the universal waste regulation will provide that direction for various materials while allowing the states flexibility from an administrative and environmental perspective. Another major issue associated with the states' programs is that many states' solid waste plans are managed by individual cities and counties. These programs often include a wide variety of solid waste options for their constituents. These options include resource recovery facilities, solid waste landfills, and transfer stations for the ultimate treatment or disposal of non-hazardous waste. If the USEPA does not follow through with an environmentally sound approach for the handling of fluorescent lamps and other mercury-containing devices, these materials could easily end up

in extremely negative environmental situations.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

This final rule provides a uniform approach for the management of spent hazardous waste lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions.

The Agency agrees that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT STAUTH

COMMENT Perhaps in the acknowledgment of the flaws in the regulatory regime for spent lamps, neither EPA nor the states have actively enforced the Subtitle C requirements against generators, transporters, and TSDFs. (NEMA is aware, however, that some enforcement actions have been initiated within recent months.) EPA is also not enforcing the state authorization provisions of RCRA in that EPA is allowing states to enact regulatory requirements for lamps that are often less stringent than the delegated Subtitle C state program. Such "enforcement discretion" is an entirely inappropriate response to problematic regulations. Responsible companies are paying the added cost and assuming the substantial burden of Subtitle C compliance, suffering a competitive disadvantage to comparison to less responsible companies. EPA is essentially endorsing this anti-competitive situation.

Fifth, as in the case of existing exclusions that defer to state authorities, mercury-containing lamps are subject to increasing

regulatory control at the state level, sometimes in violation of the authorized Subtitle C program. Many state programs are also inconsistent with the universal waste approach as proposed by EPA. Therefore, EPA needs to promulgate an exclusion with BMPs that would provide a Federal minimum, to which the states are free to add requirements as they see fit. Since the lamps would be excluded from Subtitle C, states would have increased flexibility as long as BMPs were met, to further supplement the standards to meet their own state needs. Examples of current state practices that violate Subtitle C but would be allowable under a conditional exclusion are the waiver of the manifest requirements and storage requirements for lamps that are being recycled.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste, including a waiver of the manifest requirement. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

This final rule provides a uniform approach for the management of spent hazardous waste lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions.

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

DCN FLEP-00156

COMMENTS National Electrical Manufacturers Assn.

SUBJECT STAUTH

COMMENT F. State AUTHORIZATION EPA states in the proposed rule that a conditional exclusion for spent lamps would be promulgated under

the base program established by RCRA, and not under the provisions of the 1984 amendments to the statute, the so-called Hazardous and Solid Waste Amendments (HSWA) NEMA fails to understand the rationale for this position. It is the HSWA-mandated revisions to the Toxicity Characteristic that caused lamps to be inappropriately captured within the hazardous waste system. Therefore, an exclusion from such Subtitle C coverage should also be promulgated under HSWA. The implications of this issue are significant. HSWA rules are effective immediately in states that are not authorized for the RCRA program. Changes to the Toxicity Characteristic are immediately effective in states that are authorized but have not yet adopted the TC. NEMA believes that over 30 states have not yet adopted the TC. Promulgation of the lamp exclusion under HSWA would make the exclusion immediately effective in these states, allowing them to quickly gain the benefits of the exclusion. (States that wished to impose more stringent requirements would still have the ability to do so.) The exclusion would not be effective in the less than 20 states that have adopted the TC, however until the state took the necessary actions to incorporate the exclusion into their programs. (See below for a possible interpretive approach to resolving this issue.) RCRA rules, on the other hand, are not effective in the 48 authorized states until the state program adopts them. This is a lengthy, process lasting many years and involving EPA line-by-line review and approval of state-crafted legislation, regulations, and program implementation details. Promulgation of the lamp exclusion under RCRA would significantly delay the realization of the significant environmental benefits of the exclusion and further prolong the confusion in the regulated community about their compliance obligations. It would also preclude the rapid implementation of additional regulatory flexibility in states that wanted to design tailored programs. All states who have examined Subtitle C with respect to spent lamps have found the need to develop more tailored approaches. For example, Massachusetts allows generators of spent lamps to send them directly to a permitted recycler without complying with any of the RCRA generator requirements. Wisconsin provides generators with the same exemption and also exempts recyclers from hazardous waste storage requirements. Ohio has categorized lamps as a by-product and excludes lamps from all RCRA requirements when destined for reclamation. Minnesota allows generators to

store spent lamps longer than 90 days without a permit. NEMA strongly encourages EPA to promulgate the exclusion under HSWA to hasten its actual implementation. While a less clear interpretation of existing regulations, NEMA also encourages EPA to consider the lamp exclusion, as crafted by NEMA to include alternative management standards, to be more stringent than the current program and thus required to be adopted by the states. The NEMA-proposed exclusion is more stringent than Subtitle C in that it achieves greater environmental protection 1) by addressing storage, processing, and residual materials risks at recycling facilities that are not addressed by Subtitle C, 2) by removing impediments to lighting upgrades and thereby reducing air emissions from electric power generation, and 3) by reducing transportation emissions and fuel use by creating greater uniformity in state requirements, thus facilitating access to disposal and recycling options across state lines. The advantage of taking this approach is that the energy, cost, and environmental benefits of the exclusion will be realized far sooner than would be the case if the rule were deemed to be less stringent and thereby optional for the states. Also, if it is considered more stringent, it will be effective in all states upon promulgation. States can always adopt specific requirements that are more stringent than the BMPs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. The Agency believes that some controls for the management of spent lamps are necessary but under a more simple, streamlined approach than the full Subtitle C program. The universal waste structure is more appropriate for the numerous, widely varied universe of spent lamps handlers and should result in better compliance.

The adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. The Agency does not agree with the commenter that today's rule should be promulgated under HSWA. Today's rule is not sufficiently linked to the HSWA provisions; it simply adds a new waste stream to the universal waste rule, which was already determined to be a non-HSWA rulemaking. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, EPA strongly encourages states to add hazardous waste lamps to their universal waste regulations.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00158

COMMENTS Osram Sylvania Inc.

SUBJECT STAUTH

COMMENT In our response, we wish to emphasize the chaotic state of lamp disposal regulations currently prevailing in the US. This has been caused both by Federal inaction, and by well intentioned but incomplete State actions in their attempt to fill the Federal void. To illustrate this, we are attaching examples of lamp disposal regulations from 12 different states. There are several features common to many, if not all of these state promulgated rules. 1. They are all different, creating a great deal of confusion for lamp users who have facilities in many different states (e.g., industries, major stores, fast food chains, etc.) and would like to have a common, responsible, and practical lamp disposal policy. 2. They are less stringent than RCRA requirements. This is not intended as a criticism; more user-friendly regulations are essential to get the job done in a responsible and cost effective manner. However, in some cases it leaves major users with the impossible choice between state mandated regulations that are invariably in conflict with RCRA, and a corporate desire to comply with Federal and State Law. 3.

In their enthusiasm to embrace recycling, many of the States have ignored the overriding need to control mercury emissions. As a consequence, there is no adequate state oversight of either the residuals of the recycling facilities or of the emissions from lamp breakage during storage and transportation. Some states have even permitted sham recycling activities. The only state currently addressing this issue, although not yet with sufficient stringency, is Florida. (For a thorough discourse on the amount of mercury in residuals, please refer to the NEMA response.) 4. They would all fit legally within the conditional exclusion (with best management practices) option. They would be made over-complex, more costly and burdensome under the universal waste option. Unless States are allowed the flexibility of a conditional exclusion, this would be one more unfunded Federal mandate to the States.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste yet sets specific management standards to control potential emissions during storage and transport. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim. Also, a number of individual states as well as the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) submitted comments in support of the universal waste approach. Furthermore, the Agency does not believe the universal waste approach will further complicate the state regulatory landscape since so many states have already adopted lamps under their own universal waste programs.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists

will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00160

COMMENTER Central and South West Services, Inc.

SUBJECT STAUTH

COMMENT EPA must take a proactive role in urging the states to adopt the lighting waste rules.

VIII. EPA MUST DO MORE THAN SIMPLY ENCOURAGE States to adopt THE RuleS

Because neither the conditional exclusion nor the universal waste proposal would be classified as HSWA regulations, they would not be immediately effective in authorized states. 59 Fed. Reg. at 38297. Thus, the conditional exclusion would be applicable only in those states that do not have final RCRA authorization. *Id.* As to those RCRA-authorized states with more stringent regulations, EPA indicates that it would "encourage" the states to adopt whichever proposed option is adopted. *Id.* However, "encouragement" is not enough. The preamble to the proposed rule simply states that the conditional exclusion "could reduce barriers to participation in EPA's Green Lights program, which encourages pollution prevention through energy savings." *Id.* EPA must engage in more aggressive outreach programs to the state agencies explaining why a uniform national system, "would encourage greater participation in relamping programs and benefit the public and regulated community in all 50 states. EPA also notes that adoption of either option "could help to clarify for the regulated community the proper management of mercury-containing lamps." Although this statement appears to be an afterthought to EPA, this clarification is what the regulated community has been waiting for EPA must take a proactive role in urging the states to adopt these rules, including through a letter-writing campaign to state regulatory agencies and through personal contact with individual state officials. EPA must recognize the importance of this rulemaking initiative and should actively influence the states to do the same.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a

reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

Today's amendments to the hazardous waste regulations are not effective in authorized states on the effective date since the requirements are not being promulgated pursuant to HSWA. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under state laws and obtains authorization for the revisions. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule.

The Agency agrees that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e). The Agency is encouraged by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00164

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

SUBJECT STAUTH

COMMENT We greatly appreciate the opportunity to provide comment on the two proposed alternatives, and support the EPA's efforts to establish consistency in how mercury-containing lamps should be managed nationally. If the EPA should fail to exercise necessary leadership on the lamp management issue via delaying or failing to finalize the conditional exclusion, we face the continuing dilemma of trying to comply with state by state differences in

interpretations. Such differences make it difficult to establish corporate-wide policies and procedures, which ultimately have led to frustration in the regulated community and the lack of unanimous support and participation in the EPA's Green Lights Program.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency agrees that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs such as Green Lights.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

DCN FLEP-00165

COMMENTER Ohio Chamber of Commerce

SUBJECT STAUTH

COMMENT Our member companies have had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures from disposing of lamps. Each Government agency seems to have a different interpretation of requirements, providing little confidence that our members are in compliance.

EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy efficient relamping by promulgating a conditional exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

This final rule provides a uniform approach for the management of spent mercury-containing lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states. The individual state revises its solid waste management program and obtains authorization for the revisions; however, the Agency will encourage states to adopt regulations equivalent to today's rulemaking. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00165

COMMENTS Ohio Chamber of Commerce

SUBJECT STAUTH

COMMENT Position on Need for Uniform National Approach & Speedy EPA

Action If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, our members face the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling it also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria

established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. Furthermore, due to the fact that today's rule represents a considerable reduction in management costs over full Subtitle C management standards, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs.

DCN FLEP-00166

COMMENTS American Electric Power Service Corp.

SUBJECT STAUTH

COMMENT We request that EPA take all possible actions, within its authority to convince all states in each Region to immediately follow U.S. EPA's lead by adopting the exclusion.

RESPONSE

In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will

be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00169

COMMENTS Advanced Environmental Recycling Corp.

SUBJECT STAUTH

COMMENT State CONSISTENCY: As detailed throughout this document, one of the major problems associated with the effective handling of waste fluorescent lamps is interpretation inconsistency through the Federal government as well as individual states. AERC/MTI, other recyclers, and many of the states are concerned that unless there is a viable directive from Washington, D.C. there will continue to be major problems amongst the states relating to this issue. As an example, the state of Florida, as you know, has passed legislation for the comprehensive, effective management of waste mercury products. Fluorescent lamps are included in this legislation. Florida's justification for this legislation and detail associated on the extent of their problems has highlighted that Florida's problem clearly goes beyond the boundaries of Florida, as airborne mercury levels are migrating into Florida from other states. Therefore, Florida's legislation will only correct mercury emissions that are generated in Florida. Florida will have to rely on sound environmental policy from other states to complete their program. In addition, states bordering Minnesota took substantial action since they realized fluorescent lamps were ending up in their landfills. If fluorescent lamps do not pose a major problem why would these states have to take such action? This is another obvious rhetorical question. It is clearly the role of the USEPA to set sound direction for all environmental programs while allowing the states some flexibility to manage their own programs. This is an area that truly requires direction from the USEPA. It is the opinion of AERC/MTI that the universal waste regulation will provide that direction for various materials while allowing the states flexibility from an administrative and environmental perspective. Another major issue associated with the states' programs is that many states' solid waste plans are managed by individual cities and counties. These programs often include a wide variety of solid waste options for their constituents. These options include resource recovery facilities, solid waste landfills, and transfer

stations for the ultimate treatment or disposal of non-hazardous waste. If the USEPA does not follow through with an environmentally sound approach for the handling of fluorescent lamps and other mercury-containing devices, these materials could easily end up in extremely negative environmental situations.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

This final rule provides a uniform approach for the management of spent mercury-containing lamps at the Federal level; however, individual states may have more stringent requirements for the management of this waste. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization.

The Agency agrees that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

DCN FLEP-00171

COMMENTS Monsanto Company

SUBJECT STAUTH

COMMENT C. The Present Regulatory Approach Creates Inequities. While

Hg-lamps are ubiquitous, it is not at all apparent that the Agency is inclined to enforce the regulations. This may be due to a desire to support Green Lights, a realization that it is irrational from an environmental viewpoint to enforce the requirement, or some other cause. The result is that conscientious firms are bearing the cost while others are not. Further, the lack of enforcement challenges the credibility of the RCRA program. A move to set aside the Subtitle C standard for Hg-lamps would act to improve the overall quality of the RCRA program.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. The Agency will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00171

COMMENTS Monsanto Company

SUBJECT STAUTH

COMMENT D. EPA Should Support Implementation by the States. The Agency's intent in approaching this rule has been to implement cost-effective options to the present management of Hg-lamps, options which in fact would provide environmental benefits. It is further noted that the expansion and growth of the Green Lights program and other energy conservation efforts will be aided by such a rule. At the same time, the Agency must realize that the implementation of the rule will be largely dependent on action by the individual states to implement the standard, except in those States that do not have final authorization for the base (non-HSWA) portion of the RCRA program. Monsanto Company urges the Agency to take an active role in encouraging the States to adopt this rule when it has been promulgated.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for States to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, States to adopt the universal waste regulations within a reasonable time period. Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule may encourage rather than limit participation in energy-efficient lighting programs such as Green Lights.

DCN FLEP-00173

COMMENTER Advanced Environmental Technology Corp.

SUBJECT STAUTH

COMMENT As detailed throughout this document, one of the major problems associated with the effective handling of waste fluorescent lamps is interpretation inconsistency through the Federal government as well as individual states. Service companies, recyclers, and many of the states are concerned that unless there is a viable directive from Washington, D.C., there will continue to be major problems amongst the states relating to this issue. It is clearly the role of the USEPA to set sound direction for all environmental programs while allowing the states some flexibility to manage their own programs. This is an area that truly requires direction from the USEPA. It is the opinion of AETC that the universal waste regulation will provide that direction for various materials while allowing the states flexibility from an administrative and environmental perspective. Another major issue associated with the states' programs is that many states' solid waste plans are managed by individual cities and counties. These programs often include a wide variety of solid waste options for their constituents. These options include resource recovery facilities, solid waste landfills, and transfer stations for the ultimate treatment or disposal of non-hazardous waste. If the USEPA does not follow through with an environmentally sound approach for the handling of fluorescent lamps and other mercury-containing devices, these materials could easily end up in extremely negative environmental situations. It appears there is a consensus opinion that mercury-containing lighting devices should not be allowed in resource recovery facilities. AETC concurs with that position. It is again shortsighted to believe that municipalities, county, and state governments can effectively regulate and control the solid waste flow through effective

segregation techniques.

RESPONSE

EPA agrees with the commenter that lamps should be kept out of the municipal waste stream to the extent possible. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards), yet ultimately requires treatment and disposal or recycling at a RCRA Subtitle C facility.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for States to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, States to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00174

COMMENTS Illuminating Engineering Soc. of N. Am.

SUBJECT STAUTH

COMMENT There appear to be some inconsistencies in advice obtained from regulatory agencies on the proper procedures for lamp disposal; a variety of interpretations on the requirements leads to confusion. It would be helpful, therefore, if EPA would act quickly to promulgate a conditional exclusion, thereby eliminating this current confusion. In addition such rulemaking would help to reduce building maintenance costs, and allow building owners to realize the full benefits of energy-efficient relamping.

RESPONSE

In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. Instead, the Agency is adding hazardous waste lamps to the universal waste regulations in 40 CFR Part 273. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the

universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

The requirements promulgated today are not effective in authorized states until the individual state revises its solid waste management program; however, the Agency will encourage states to adopt regulations equivalent to today's rulemaking. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00174

COMMENTS Illuminating Engineering Soc. of N. Am.

SUBJECT STAUTH

COMMENT The ruling being considered is essentially another unfunded Federal mandate. As such, it would be unrealistic to expect much in the way of enforcement if the ruling were overly stringent, which the Universal Approach appears to be.

RESPONSE

The Agency does not agree with the commenter that today's final rule, which adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273, is overly stringent. Before today's rule, lamps that exhibited a hazardous waste characteristic were subject to full hazardous waste regulation. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards for generators, collectors, and transporters of universal waste. Therefore, since this new rule is less stringent, it cannot be an unfunded mandate. Furthermore, states do not have to adopt the changes.

The universal waste rule represents a significant cost reduction over full Subtitle C management requirements for generators, collectors, and transporters, yet ensures that lamps are recycled or treated in an environmentally protective manner at full Subtitle C hazardous waste facilities. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00174

COMMENTS Illuminating Engineering Soc. of N. Am.

SUBJECT STAUTH

COMMENT Position on Need for Uniform National Approach and Speedy EPA

Action IESNA has members in every state, among whom are generators of spent lamps. If EPA fails to quickly finalize a conditional exclusion, these members face the prospect of spent lamps being regulated in a wide variety of different ways across the United States, as states move to adopt their own regulatory schemes. This will be especially burdensome for generators with multiple facilities, each in a different state, which will require compliance with many different state regulations. Such variation in regulations makes it difficult to design and implement policies and procedures with respect to lighting upgrades and lamp disposal or recycling. (When design recommendations are affected, then so is another large segment of our membership including design consultants, lighting energy engineers, and lighting management and maintenance professionals.) The lack of a uniform national approach prolongs uncertainty within the regulated community about the compliance options that are available.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00177

COMMENTS Philip Lighting Company

SUBJECT STAUTH

COMMENTS Philip Lighting urges the Agency to rapidly implement a conclusion on this ruling. The present status of Subtitle C with little or no enforcement is raising havoc in the market place. Several states have invented their own form of RCRA and are in clear violation of Federal statutes. This leads to unfair restrictions on our customers, some of which are forced to adhere strictly to the rules while others allowed less stringent, cheaper and environmentally unsound options. Full enforcement of Subtitle C however, would cause a major problem for the user that suddenly falls into the system by virtue of his combined lamp and other hazardous waste. The recycling industry also may encounter more difficult siting and licensing restrictions.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00178

COMMENTS General Electric Company

SUBJECT STAUTH

COMMENTS Because states have recognized that the risks posed by

mercury-containing lamps does not warrant Subtitle C regulation, most have not actively enforced the Subtitle C requirements. Additionally, many states have developed specific lamp requirements that are inconsistent and less stringent than their delegated RCRA programs. This has created a patchwork of inconsistency and uncertainty for lamp manufacturers and generators of spent lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00178

COMMENTS General Electric Company

SUBJECT STAUTH

COMMENT C. EPA Should Establish an Appropriate Federal Floor for Spent Lamp Management. GE believes that a primary objective of EPA's efforts should be to set an appropriate Federal regulatory floor for the management of spent mercury containing lamps. Establishing such a floor has long been the standard procedure for the Agency in its solid and hazardous waste programs. The floor establishes a minimum set of protective requirements and allows states with unique circumstances to develop more stringent requirements or requirements that are broader in

scope. It also allows states to mandate certain management methods (such as recycling) if safe and cost-effective capacity is available. Such a Federal approach would go far in establishing consistency among states in how spent mercury containing lamps are managed. This is a consistency that is currently lacking under a Subtitle C framework. Many states have modified their requirements for lamps in ways that create less stringent programs than their delegated RCRA programs. For example, some states (e.g., Wisconsin) do not require manifests to be used when lamps are sent to off- site recycling facilities. Others (e.g., Minnesota) allow generators to store lamps longer than 90 days without a permit. Most states have been lax in enforcing hazardous waste rules against lamp generators, transporters, and recycling and disposal facilities altogether. Generators that follow duly-authorized state programs are thus at risk of Federal enforcement. Many states are reacting to what they view as inappropriate regulation of mercury containing lamps as hazardous wastes. But the response has been either to ignore the requirements by not enforcing them (which is untenable for both the state and for generators of spent lamps who remain uncertain about their regulatory status) or to create a new program framework which may not be as stringent as the Federal program. In creating new requirements, many states may have developed programs without the complete knowledge of the risks and benefits of various management options. Some states appear to be basing their actions on a belief that reclamation is an environmentally preferable management option to high quality Municipal solid waste landfills. This conclusion is reached despite analyses suggesting that reclamation and reuse as currently practiced may result in greater mercury releases than disposal in high quality landfills. The problems at the state level are a direct result of the current classification of spent fluorescent lamps as hazardous wastes under the toxicity characteristic. It is also why it is so critical that EPA create an exclusion from Subtitle C for spent lamps and set a baseline floor of best management practices that can provide rational guidance to states on how to address the lamps issue.

RESPONSE

The Agency is not adopting a conditional exclusion for hazardous waste lamps because an exclusion would not adequately protect human health and the environment. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The

Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards) yet still allows the Agency to set specific management standards to minimize potential emissions.

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under state laws and obtains authorization. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, the Agency strongly encourages them to do so.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. States are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00180

COMMENTS Food Marketing Institute

SUBJECT STAUTH

COMMENT A further benefit EPA adopting the conditional exclusion rule is the uniformity in approach EPA would be establishing for the states. This would be particularly helpful for supermarket companies that have multi-state operations.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full

Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Note, however, it would have been the same situation with the conditional exclusion. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00182

COMMENTS Eastman Kodak Company

SUBJECT STAUTH

COMMENT We applaud the Agency for exercising decisive leadership on the lamp disposal issue via this proposal. Companies such as Kodak, which operate in a wide variety of states, are beginning to see a patchwork of regulatory schemes developing for lamp management. Such variation makes it extremely difficult to develop uniform policies and procedures for lighting upgrades and management of spent lamps. Having a Federal program in place which clearly identifies appropriate management options will go far to encourage states to adopt consistent regulations.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards,

though it strongly encourages them to do so. The Agency is encouraged, however, by the more than number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00183

COMMENTS Chemical Manufacturers Association

SUBJECT STAUTH

COMMENT EPA Needs to Provide Compliance Assistance.

Many of our members

companies have told us that they have had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each agency seems to have a different interpretation of the relevant requirements, providing little confidence that our members are in compliance. EPA should act quickly to eliminate current confusion, reduce plant and building maintenance costs, and gain the full benefits of energy-efficient relamping by promulgating a conditional exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). The Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states since the requirements are promulgated under pre-HSWA authority. The requirements promulgated today will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws. However, a number of states already have either added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

The requirements promulgated today are not effective in authorized states until the individual state revises its solid waste management program; however, the Agency will encourage states to adopt regulations equivalent to today's rulemaking. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00186

COMMENTS Building Owners or Managers Assn. Int.

SUBJECT STAUTH

COMMENT Finally, disposal options for mercury-containing lamps must also be addressed by the states. States must be strongly encouraged to follow the U.S. EPA's lead in deregulating the disposal of mercury-containing lamps.

RESPONSE

The Agency strongly encourages states to adopt today's rule and submit to EPA the program modification for authorization.

The Agency is encouraged by a number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00187

COMMENTS PacifiCorp

SUBJECT STAUTH

COMMENT (8)EPA must take a proactive role in urging the states to adopt the lighting waste rules.

VIII. EPA MUST DO MORE THAN SIMPLY ENCOURAGE

States to adopt THE Rules

Because neither the conditional exclusion nor the universal waste proposal would be classified as HSWA regulations, they would not be immediately effective in authorized states. 59 Fed. Reg. at 38297. Thus, the conditional exclusion would be applicable only in those states that do not have final RCRA authorization. *Id.* As to those RCRA-authorized states with more stringent regulations, EPA indicates that it would "encourage" the states to adopt EPA's chosen option. *Id.* Mere "encouragement" is not enough. The preamble to the proposed rule states that the conditional exclusion "could reduce barriers to participation, in EPA's Green Lights program, which encourages pollution prevention through energy savings." *Id.* EPA must explain more aggressively to the state agencies why a uniform national system would encourage greater participation in relamping programs and benefit the public and regulated community in all 50 states. Moreover, EPA must take a proactive role in urging the states to adopt its rules for mercury-containing lamps, through a letter-writing campaign to state regulatory agencies and through personal contact with individual state officials..

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will

be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00188

COMMENTER Westinghouse Electric Corporation

SUBJECT STAUTH

COMMENT This proposal would also encourage more consistent management of mercury-containing lamps from state to state.

RESPONSE

The Agency believes that the adoption of the universal waste will provide a nationally consistent method for managing spent hazardous waste lamps. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00191

COMMENTER Utility Solid Waste Activities Group

SUBJECT STAUTH

COMMENT EPA must take a proactive role in urging the states to adopt the lighting waste rules.

IX. EPA MUST DO MORE THAN SIMPLY ENCOURAGE States to adopt the rules. Because neither the Municipal solid waste landfill option nor the universal waste proposal would be classified as HSWA regulations, they would not be immediately effective in authorized states. 59 Fed. Reg. at 38297. Thus, the Municipal solid waste landfill option would be applicable only in those states that do not have final RCRA authorization. Id. As to those RCRA- authorized states with more stringent regulations, EPA indicates that it would "encourage" the states to adopt whichever proposed option is adopted. Id. However, "encouragement" is not enough. The preamble to the proposed rule simply states that the Municipal solid waste landfill option "could reduce barriers to participation in EPA's Green Lights program, which encourages pollution prevention through energy savings." Id. EPA must engage in more aggressive outreach programs to the state agencies explaining why a uniform national system would encourage greater participation in relamping programs and

benefit the public and regulated community in all 50 states. EPA also notes that adoption of either option "could help to clarify for the regulated community the proper management of mercury-containing lamps." Id. Although this statement appears to be an afterthought to EPA, this clarification is what the regulated community has been waiting for. EPA must take a proactive role in urging the states to adopt these rules, including through a letter-writing campaign to state regulatory agencies and through personal contact with individual state officials. EPA must recognize the importance of this rulemaking initiative and should actively influence the states to do the same.

RESPONSE

The Agency believes that the adoption of the universal waste will provide a nationally consistent method for managing spent hazardous waste lamps. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00192

COMMENTS Certified Maintenance Services, Inc.

SUBJECT STAUTH

COMMENT Our company has had significant difficulty in obtaining consistent advice from regulatory agencies in the proper procedure for the disposal of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that our company is in compliance. It seems every week we are receiving conflicting information in the mail. EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy efficient relamping by promulgating the conditional

exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Today's final rule may reduce much of the current confusion over the regulatory status of spent lamps, at least at the Federal level. Today's rule ensures protection of the environment while reducing the regulatory burden for generators previously required to manage spent lamps in accordance with the full Subtitle C hazardous waste regulations. Generators of spent hazardous waste lamps are now subject to reduced regulatory requirements which provide a simple and consistent management scheme to facilitate the proper disposal or recycling of hazardous waste lamps.

The Agency believes that the adoption of the universal waste will provide a nationally consistent method for managing spent hazardous waste lamps. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for authorization.

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization. However, the Agency is encouraged by the number of states that have already added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00192

COMMENTS Certified Maintenance Services, Inc.

SUBJECT STAUTH

COMMENT Certified Maintenance Services, Inc. operates in all 50 states.

If EPA fails to exercise leadership on the lamp disposal issue
by delaying or failing to finalize the conditional exclusion,

our company faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variations make it extremely difficult to design and implement company wide policies and procedures with respect to lighting upgrades and disposal or recycling. Further, it is extremely difficult to advise our clients and customers as to their approach of handling this problem. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through the implementation of broad-scale energy efficient lighting programs. The further result of extending the confusion that now exists also extends the amount of time necessary to educate the generators on the proper handling of this waste stream. The current confusion is causing a high percentage of generators to continue disposing of mercury-containing lamps in an unregulated waste stream. Once a uniform national approach is in place, our company will be able to move quickly to educate our customers on the proper handling of their fluorescent and HID lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the

number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00193

COMMENTS Sunset Lighting Services

SUBJECT STAUTH

COMMENT UNIVERSAL WASTE: Our company has had significant problems obtaining consistent advice from regulatory agencies in the proper procedures for lamp disposal. Each government agency has a different interpretation of requirements. EPA should help in eliminating the problems.

RESPONSE

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states since until the state revises its program to adopt equivalent requirements under state laws. However, a number of states already have either added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00193

COMMENTS Sunset Lighting Services

SUBJECT STAUTH

COMMENT POSITION ON NEED FOR UNIFORM NATIONAL APPROACH AND
SPEEDY EPA ACTION

Sunset Lighting is a nationwide company and operates in city's throughout the United States. If EPA fails to exercise leadership on the lamp disposal by delaying or failing to finalize the conditional exclusion, our company faces the prospect of spent lamps being regulated in various ways throughout the company, as states regulate there own schemes.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00194

COMMENTS Virginia Retail Merchants Association

SUBJECT STAUTH

COMMENT Additionally, our member companies have had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that our members are in compliance.

EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy efficient relamping by promulgating a conditional exclusion. Many of the member companies of the Virginia Retail Merchants Association operate in many different states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, our members face the prospect of spent lamps being regulated in a wide variety of ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00196

COMMENTS American Lighting Association

SUBJECT STAUTH

COMMENT Our member companies have had significant difficulty obtaining consistent advice from regulatory agencies in the proper procedures for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that our members are in compliance. EPA should act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy-efficient relamping by promulgating a conditional exclusion.

RESPONSE

In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization. However, a number of states already have either added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized today should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00196

COMMENTER American Lighting Association

SUBJECT STAUTH

COMMENT The member companies of the ALA operate in many different states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize a conditional exclusion, our members face the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variation makes it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal

waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00199

COMMENTER National Association of Electric Dist.

SUBJECT STAUTH

COMMENT Position on Need for Speedy EPA Action Promulgation of an exclusion accompanied by tailored management standards will give states the flexibility to either adopt the exclusion as promulgated or to increase the stringency of certain provisions as needed within the state. States do not have as much flexibility under the Subtitle C system to tailor the requirements to meet state needs. We also strongly encourage EPA to act quickly to finalize a conditional exclusion, so that states can act to resolve the current confusion in the regulated community. The exclusion should be promulgated under the HSWA amendments, since it is a revision to the applicability of the Toxicity Characteristic and has the added benefit of being immediately effective in the states which have not adopted the TC, which represents a majority of the states at present.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to

nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. The Agency does not agree with the commenter that today's rule should be promulgated under HSWA. Today's rule is not sufficiently linked to the HSWA provisions; it simply adds a new waste stream to the universal waste rule, which was already determined to be a non-HSWA rulemaking. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those States that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under state law. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Whether the less stringent provision were or were not promulgated pursuant to HSWA, authorized states are not required to modify their programs to adopt less stringent requirements. However, the Agency strongly encourages the state to adopt requirements equivalent to today's rule.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. States are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

DCN FLEP-00201

COMMENTS WMX Technologies, Inc.

SUBJECT STAUTH

COMMENT Uniform Approach WMX operates in the majority of the 50 states.

Delaying a conditional exclusion, means that the regulated community must deal with a wide variety of scenarios under which spent lamps get viewed by the regulators. Such variation makes it difficult to design and implement regional, cost-effective lamp management programs. Delaying a conditional exclusion also prolongs the uncertainty within the regulated community about available compliance options. The result is that the Agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through implementation of broad scale, energy-efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the Agency believes that the less stringent, streamlined standards of the universal waste rule should not impact participation in energy-efficient lighting programs.

DCN FLEP-00203

COMMENTS American Gas Association

SUBJECT STAUTH

COMMENT Lastly, EPA should urge the states to follow EPA's lead in the various state programs. Without the states incorporating any change in their own programs, the change is meaningless, and no benefits would accrue to the regulated community and the effort to reduce greenhouse gas emissions.

RESPONSE

The Agency agrees that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00204

COMMENTER American Lamp Recycling, Ltd.

SUBJECT STAUTH

COMMENT ALR is currently capable of opening two additional facilities by the spring of 1995. We delayed our expansion plans due to the issuance of option 1 within the proposed rule. Much of our hesitation is due to the different directions many States have moved waiting for the Agency to take the lead on this issue. We are stunned by the Agency's inclusion of option 1 within the proposed rule, and believe that option 1 will only create confusion and additional cost for industry as States move to implement more stringent regulations to prevent their communities from becoming the dumping ground for mercury-containing lamps from States with protective lamp management programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards) yet ultimately requires recycling or treatment and disposal at a RCRA Subtitle C facility. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency understands that difficulties may arise if the universal waste rule is not adopted by all States. The Agency cannot force states to adopt the universal waste rule in lieu of current standards, though it strongly urges them to do so. EPA believes that today's rule, which offers a

new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

DCN SCSP-00205

COMMENTER Florida Dept. of Environ. Regulation

SUBJECT STAUTH

COMMENT The Florida Legislature has recently passed legislation that will eventually prohibit the disposal of mercury-containing lamps and other devices into the solid waste stream. It also calls for the establishment of a demonstration project for the collection and recycling of such wastes. In addition, the Legislature also passed battery language that will require the collection and proper management of mercuric oxide, nickel-cadmium, and small sealed lead-acid batteries. For all of these reasons the Department is extremely interested in the structuring of the Part 273 requirements.

RESPONSE

Based upon several studies of the behavior of mercury in the environment and an evaluation of the potential risks to human health and the environment from the options presented in the proposed rule, the Agency is adding hazardous waste lamps to the scope of the universal waste rule.

On May 11, 1995, the Agency promulgated the universal waste rule (60 FR 25492). The regulations, found in 40 CFR Part 273, impose a streamlined set of waste management requirements for generators, transporters, and interim storage facilities who manage hazardous waste batteries, certain hazardous waste pesticides, and mercury-containing thermostats. The universal waste regulations include proper storage standards, accumulation time limits, and notification requirements for facilities that generate and handle but do not treat or dispose universal waste. The universal waste regulations also include a petition process through which additional wastes could be added to the universal waste regulations in the future. The state of Florida has received authorization to implement the universal waste regulations.

Today's final rule does not change the universal waste management standards for batteries, pesticides or thermostats. It simply adds hazardous waste lamps to the universal waste program and include provisions for the management of spent hazardous waste lamps that are very similar to the requirements previously promulgated for other universal wastes.

DCN SCSP-00211

COMMENTER Minnesota Pollution Control Agency

SUBJECT STAUTH

COMMENT In 1990, 1991, and 1992, the Minnesota State Legislature passed laws primarily aimed at addressing mercury emissions from

mercury-bearing waste products that end up in Minnesota's solid waste incinerators and landfills. Enclosure 4 is a copy of these laws.

RESPONSE

EPA thanks the commenter for the information provided and notes that today's rule should help keep hazardous waste lamps out of the municipal waste stream.

DCN FLEP-00214

COMMENTS American Municipal Power-Ohio, Inc.

SUBJECT STAUTH

COMMENT AMP-Ohio recognizes that the State of Ohio may be more stringent than Federal regulations, and is not required to adopt the rules proposed here. However, if you decide to exempt spent bulbs from regulation as a hazardous waste, Ohio EPA will likely grant a similar exemption. Thus, impediments to relamping at the state and Federal level will be removed. If you make spent light bulbs a "universal hazardous waste," Ohio CESQGs will still have to dispose of mercury-containing light bulbs as hazardous waste.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. EPA did not believe the conditional exclusion would sufficiently protect human health and the environment. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

In addition to the expected benefits of the universal waste program, EPA believes that today's rule, which offers a new streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval in advance of, or according to, the schedule that applies to mandatory program revisions pursuant to 40 CFR 271.21(e).

Today's rule does not affect the Federal regulatory status of generators of small volumes of spent lamps, including households and conditionally exempt small quantity generators (CESQGs are facilities that generate less than 100 kg of hazardous waste in any given month). Household and CESQG hazardous waste lamps may continue to be disposed of at full Subtitle D disposal facilities under the Federal program or they can choose to manage them as universal waste. Ohio may, however, be more stringent in terms of CESQGs or household waste.

DCN FLEP-00217

COMMENTS Lighting Management, Inc.

SUBJECT STAUTH

COMMENTS Lamps, on the other hand, do not have a clear national policy to follow. We have 50 states with 50 different policies. In some states we seem to be in compliance. In other states, we put our company at risk of huge retribution, down the road, when we are handling lamps the same way as is legal in another state. We would like to strongly urge the EPA, to enact a national policy encouraging the recycling of lamps on the same lines as the conditional exclusion being looked at.

RESPONSE

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00224

COMMENTS Amtech Lighting Services

SUBJECT STAUTH

COMMENTS Position for Uniform Approach and Action Amtech Lighting Services feels the EPA has not exercised its leadership on a national lamp disposal issue. As states across the nation all move to adopt their own regulatory schemes, it becomes very difficult to implement company-wide policies and procedures to handle lamp disposal. It also adds to the tremendous uncertainty within the regulated community in regards to compliance options that are available. All of this results in generators trying to dispose of mercury containing lamps in unregulated ways. We need a uniform national approach in place that we can address the issues along with the proper ways to handle fluorescent and HID

lamps for disposal or recycling.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00226

COMMENTER FMS Lighting Management Systems, Inc.

SUBJECT STAUTH

COMMENT 2. When researching the regulations and rules we find no consistency from any of the regulatory agencies. There is much confusion as to which rules apply and which ones do not. Some states have adopted laws governing the handling of fluorescent & HID lamps while others have not. It becomes very costly to administration thus driving the price of the job up when a company such as ours works in several states. The EPA should act to stop the confusion and establish a clear and concise rule.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency believes that adoption of the universal waste rule by each State would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00228

COMMENTS STAPPA/ALAPCO

SUBJECT STAUTH

COMMENT Implementation and Enforcement. The conditional exemption assumes that generators and handlers would adhere to best management practices for lamps. This may be true, however, implementation and enforcement would be costly and difficult without a mechanism to ensure proper disposal. Even if the proper certification for disposal could be produced during a generator inspection, there would be no way for the RCRA inspector to know whether the disposal service in question disposed of the material at an industrial solid waste landfill a MSW landfill or an incinerator.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Universal wastes must ultimately be managed at destination facilities (i.e., recycling or treatment and disposal facilities) that are in full compliance with all applicable Subtitle C hazardous waste management requirements, including the permitting and interim status provisions. Therefore, the enforcement issues the commenter raised should not be a problem.

DCN FLEP-00229

COMMENTS Global Recycling Technologies, Inc.

SUBJECT STAUTH

COMMENT 16. States continue to act on this issue, North Carolina just banned landfill of lamps, Florida has finalized legislation, Michigan and Illinois have issued statements enforcing RCRA for lamp disposal. Several states are on record that if Option 1 is adopted, they will not allow landfill. Option 1 would continue to create state to state inconsistencies in policy, creating an unfair advantage for businesses in States that would allow Option 1.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

Universal wastes must ultimately be managed at destination facilities (i.e., recycling or treatment and disposal facilities) that are in full compliance with all applicable Subtitle C hazardous waste management requirements, including the permitting and interim status provisions. This requirement will apply in all states.

However, because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. Therefore, some states may still choose to manage lamps under the full Subtitle C management standards.

DCN FLEP-00235

COMMENTS Novated Concept Systems

SUBJECT STAUTH

COMMENT I have witnessed, with NCS and other companies, this effect in several states and municipalities where a mercury-scare has led to general confusion, arguments with and among regulators and time-consuming money-wasting searches for "appropriate" disposal options and technologies. Some areas have simply assumed a NIMBY (not-in-MY-backyard) posture, and simply ship the offending lamps elsewhere. Policies place-to-place are nowhere near universal, and where policies do exist, they often contravene (without any perceived penalty) Federal law! In the Cincinnati tri-state area, the local waste-management companies have been at odds internally, and with each other, about (1) whether or not to accept fluorescent and H.I.D. lamps, (2) what lamp

amounts and hazardous material levels are involved and (3) if TCLP procedures are required or necessary. We inform our customers of the EPA's recommendations, but the cost to recycling (approximately 12 [cents] per foot for fluorescent lamps) is enough to have slowed, and even halted, several major projects in our area. These would have provided sizable energy-savings to the customer, and decreased emissions from our local utilities.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Furthermore, the regulatory approach finalized should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00238

COMMENTS Energy Specialties, Inc.

SUBJECT STAUTH

COMMENT Lastly, since ESI does business in several states, we are concerned about the various state legislation we and our customers could be subject to if the EPA does not act to finalize the conditional exclusion. This would no doubt cause additional costs in terms of handling and record keeping. It would add significantly to the confusion on the part of our clients on regulatory procedures they must follow, allowing for gaps, mistakes and loopholes. Ultimately, it means more mercury waste will enter the environment.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00240

COMMENTS Luminaire Service, Inc.

SUBJECT STAUTH

COMMENT Luminaire Service currently operates in five states. As states begin to adopt their own regulatory plans, we are faced with a variety of regulations with which to comply and interpret. It will be very difficult to plan and implement company procedures regarding lamp disposal and recycling and equally difficult to inform our clients on their responsibilities for disposing of the spent lamps. EPA's continued delay in finalizing the conditional exception prolongs the uncertainty about the compliance options. The result of the continued confusion will be delays in implementing energy-reducing lighting upgrades as well as a delay in subsequent reduction in air emissions from lower electric power generating needs. The longer regulation takes, the more time it will take to educate generators in the proper handling of lamp waste. The uneducated and confused generators will continue to dispose of their mercury-containing

lamps unsafely. Once a national approach is attained, Luminaire Service can implement its plan for lamp disposal and recycling as well as assist our customers in disposing of their fluorescent and HID lamps in a responsible and safe manner. In the past, it has been extremely difficult for us to obtain consistent information from agencies regarding lamp disposal. Not too long ago, one of our retrofit customers challenged the need for the extra expense we included in our quote for lamp disposal. I quoted the EPA regulation from CFR 261.11; he quoted information to me he obtained from EPA Region 5 and the RCRA hot line which told him that there was "no problem". To say the least, we came to a stalemate regarding this issue. As a company that regularly comes in contact with this issue, we are very concerned about staying within the law. Quick action by the EPA to enact the conditional exclusion is imperative. This decision will eliminate the confusion, reduce lighting maintenance costs and encourage energy-efficient relamping by decreasing the expense of the project and concerns about future liability.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00250

COMMENTER International Assn. of Lighting Man. Co.

SUBJECT STAUTH

COMMENT As mentioned before, NALMCO has members in all 50 states - many of those members do business in more than one state. As states move to adopt their own regulatory systems, the variations in regulations will make it almost impossible for companies to devise and implement a comprehensive lamp disposal plan. It will be virtually impossible for NALMCO to, advise and educate its members in the safe, economic and legal disposal of mercury-containing lamps. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, it will also prolong the uncertainty within the regulated community about the compliance options available. The result is that the agency will fail to achieve or delay achievement of energy-efficient lighting programs that would lead to the environmental goal of reducing air emissions through reduced energy consumption used for lighting. Once a uniform national approach is in place, NALMCO will be able to quickly educate our member companies in the proper handling of spent fluorescent and HID lamps. Our members will, in turn, be able to quickly spread this education throughout the country through customer education.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency notes that although today's final rule provides a reduced set of management standards for the management of spent lamps at the Federal level, state regulations may be more stringent. Given that today's rulemaking is less stringent than the previous regulations governing the management of spent hazardous waste lamps, state agencies are not required to seek authorization for the new requirements. Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, but will not be immediately effective in authorized states until such states revise their solid waste management programs to adopt equivalent requirements and obtain authorization. A number of states already have either added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00256

COMMENTS Ford Motor Company

SUBJECT STAUTH

COMMENT State Authorization. The Agency states in the proposal that because both options are considered less stringent or reduced in scope over existing Federal regulations, authorized states would not be required to modify their programs to adopt regulations consistent with and equivalent to the proposed exclusions. We believe this position is unwarranted for several reasons. First, Ford believes that this proposal amounts merely to an amendment of a HSWA requirement rather than a relaxation of the base program which authorized states manage.[1] [Footnote 1: Minnesota, which has an existing lamp regulatory program, acknowledges that mercury-containing lamps are now hazardous wastes as a result of the newly adopted Toxicity Characteristic

Leaching Procedure (TCLP), which is a HSWA requirement. (see Attachment 1).] A HSWA requirement would become effective in both authorized and unauthorized states in a timely manner. Second, EPA's proposed position is contrary to the agency's position in the recent Land Disposal Restriction (LDR) rulemaking (59 FR 47982) implementing universal treatment standards. There the agency determined that although in some cases prior HSWA/LDR requirements would be "relaxed", the new LDR requirements become effective in all states. We believe the same approach is proper here. Finally, EPA's proposal would lead to disuniformity among states in implementing mercury-containing lamp programs. If the final rulemaking is characterized as a "reduction in scope of the base RCRA program", the new requirements would only become effective in a very few states, until additional authorized states chose to adopt them, by way of their own lengthy rulemaking processes. We believe a timely and uniform standard should be promulgated to encourage conversion to energy-efficient lamping. The individual states would be free to promulgate more stringent standards if deemed appropriate.

RESPONSE

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. The Agency does not agree with the commenter that today's rule should be promulgated under HSWA. Today's rule is not sufficiently linked to the HSWA provisions; it simply adds a new waste stream to the universal waste rule, which was already determined to be a non-HSWA rulemaking. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under State law and obtain authorization. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule.

The Agency believes that adoption of the universal waste rule by each State would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program

revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00257

COMMENTS Tri-County Lighting Services, Inc.

SUBJECT STAUTH

COMMENT There seems to be a different interpretation of requirements with many agencies, and we feel that with the elimination of such confusion we can better access the more important issues. We feel that there needs to be some type of National uniformed plan implemented, regulating all states and organizations so that when generators off services or operate in multiple states, they are not crossing over back and forth between requirements. This eliminates unnecessary paperwork, and reduces building maintenance costs.

RESPONSE

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00257

COMMENTS Tri-County Lighting Services, Inc.

SUBJECT STAUTH

COMMENT In conclusion, we would like to summarize the following key points: Because there are so many inconsistent state requirements, many corporations are faced with the fact that they are not in compliance with either, state or a Federal program since it is very difficult and often impossible to comply with both. Again, this reinforces the need for a Nationwide uniform plan. The EPA and some states are choosing not to enforce against generators who don't manage lamps as hazardous waste. For those who do comply with requirements, this creates a cost disadvantage, to those who are violating the law. A prompt National uniform will allow spent lamps to move easily across state lines and this will minimize unnecessary paperwork and the confusion that occurs because of the diversified requirements between states and agencies. Once a uniform National approach is in order, our company will be better able to fulfill the desired goals of the EPA and our own (the protection of our environment and of human health).

RESPONSE

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-00259

COMMENTS Cherry City Electric, Inc.

SUBJECT STAUTH

COMMENT Licensed as an electrical contractor in four (4) western states we truly understand the need for "common and consistent application of the rules". Presently I have difficulty operating within Oregon alone, what with rules and interpretations varying from city to county or various authority districts.

RESPONSE

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes and believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. The Agency is encouraged by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00264

COMMENTS Lighting Maintenance, Inc.

SUBJECT STAUTH

COMMENT Lighting Maintenance operates in Michigan. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, our company faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variations make it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end result is that the agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through the implementation of broad-scale energy efficient lighting programs. The current confusion is causing a high percentage of generators to continue disposing of mercury lamps in an unregulated waste stream. Once a uniform national approach is in

place, our company will be able to move quickly to educate our customer on the proper handling of their fluorescent and HID lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00270

COMMENTS The Barney Roth Company

SUBJECT STAUTH

COMMENT The Barney Roth Company operates in many different states. If

EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, our

company faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variations make it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the more than number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00272

COMMENTS Detroit Edison Company

SUBJECT STAUTH

COMMENT Finally, Detroit Edison strongly requests the EPA to do more

than simply encourage States to adopt a conditional exclusion or universal waste management system for lighting wastes, depending on the option selected by the Agency in its final rules. There presently exists a lack of consistency regarding the regulatory status and enforcement of lighting waste rules from state to state and even within states. This causes much confusion in the regulated community and is discouraging accelerated change out of inefficient lighting. Once the EPA rules are finalized (which Detroit Edison encourages the Agency to rapidly complete), the Company requests that the Agency engage in an aggressive outreach program to the state agencies explaining why a uniform national system would encourage greater participation in accelerated lighting change out programs and why that is a benefit to the public, industry and the environment.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency believes that adoption of the universal waste rule by each State would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00289

COMMENTS Fluorescent Maintenance Company

SUBJECT STAUTH

COMMENT In closing, we must point out that a decision is needed soon.

Several states are implementing or preparing to implement regulations soon, and the result is likely to be nightmare of regulation and liability that cost our society in a painful way.

We ask the EPA to institute regulations on lamp disposal that are cost justified, feasible, and in keeping with the overall goal of reducing mercury pollution.

RESPONSE

Today's rule adds hazardous waste lamps to the universal waste regulations in 40 CFR Part 273. These requirements are less complex and less costly to generators, collectors, and transporters of hazardous waste lamps than full Subtitle C. The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval states already managing lamps under their authorized universal state program only need to revise their requirements if they are less stringent with this rule.

DCN FLEP-00291

COMMENTS A-1 Lighting Service, Inc.

SUBJECT STAUTH

COMMENT A-1 Lighting works in different states and unless a uniform national approach and EPA action is reached there could be many different rules and regulations. We feel that one responsible disposal system should be implemented to cover all states.

RESPONSE

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that

these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00300

COMMENTS ElectricSave Company

SUBJECT STAUTH

COMMENT POSITION ON NEED FOR UNIFORM NATIONAL APPROACH AND SPEEDY EPA ACTION

The ElectraSave company operates in many different states. If EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, our company faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variations make it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, that are less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help to ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these

efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00301

COMMENTER Minnesota Pollution Control Agency/MOEA

SUBJECT STAUTH

COMMENT Summary of Comments 1. Need for Strong National Standard.

The mercury contamination issue is akin to the acid rain issue in that it requires a strong national response even though a few areas of the nation may not have currently identified direct effects. EPA must promulgate the UW alternative, a strong national standard instead of the CE alternative, a baseline standard which assumes that states will resolve state specific contamination by passing more stringent state standards. States with strong mercury control efforts will not be protected from mercury emissions originating elsewhere.

1. Need for Strong National Standard For most environmental issues, the level of interest and concern across the nation may fluctuate dramatically depending on state specific industries or pollution sources. In these cases, a Federal baseline regulatory approach may be reasonable and acceptable. Under a Federal baseline regulatory approach, it is assumed that states with additional concerns will be more stringent than the Federal standards to address these state specific concerns or pollution sources. However, the mercury contamination issue is not like other environmental issues where a stringent state standard may be sufficient to address a particular state's concerns. Due to the regional and global nature of mercury pollution, mercury emissions do not recognize state boundaries and disperse widely. Therefore, states with a higher concern could eliminate or ban all mercury emission sources in their respective states and do little to solve their own mercury contamination problem. We believe the following comments demonstrate that mercury is a significant regional and global pollutant and that the Conditional Exclusion (CE) alternative would allow lamps to continue to be a significant source of mercury contamination. While there may be a few states that do not currently have the same level of concern for mercury emissions for a number of reasons (e.g., lack of testing, lack of significant water bodies), these states are still contributing to the impact in other states, the nation, and the world. Therefore, we believe that EPA must promulgate the

Universal waste (UW) alternative, a strong national standard, instead of the CE alternative, a baseline standard, which relies on states that have identified the concern to resolve their contamination problem through stringent state regulation. The mercury contamination issue akin to the acid rain issue in that it requires a strong national response even though a few areas of the nation may not have currently identified direct effects. States with stringent mercury controls will not be protected from mercury emissions originating elsewhere.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste. The Agency agrees with the commenter that the universal waste approach is more protective than the conditional exclusion.

The Agency believes that adoption of the universal waste rule by each State would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval. EPA furthermore notes that states can be more stringent if they so choose.

DCN FLEP-00301

COMMENTS Minnesota Pollution Control Agency/MOEA

SUBJECT STAUTH

COMMENT 6. Consistency with Other Current EPA and State Initiatives.

EPA and many states are currently spending an enormous amount of time and money on needed initiatives to reduce mercury emissions. The CE alternative is in direct conflict with the goals of these initiatives. The UW alternative is consistent with these initiatives.

6. Consistency with Other Current EPA and State Initiatives EPA and many states are currently spending an enormous amount of time and money on major initiatives to reduce mercury emissions across all media. The CE alternative is in direct conflict with the goals of these initiatives. The UW alternative is consistent with all of these initiatives. Federal and state initiatives include: -The Virtual Elimination Project under EPA's Great

Lakes National Program -The Great Lakes States' Mercury Task Force -EPA's Cross-Media Mercury Work Group -The Southern States' Mercury in Fish Task Force (ten southern states) -The Minnesota Pollution Control Agency's Mercury Task Force -The Michigan Mercury Pollution Prevention Task Force -Northeast States, including Delaware, Maryland, Pennsylvania, New Jersey, New York, and Connecticut are currently forming a work group.

RESPONSE

EPA agrees with the commenter that the universal waste approach is the most consistent option in relation to other EPA and state initiatives. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

DCN FLEP-00301

COMMENTER Minnesota Pollution Control Agency/MOEA

SUBJECT STAUTH

COMMENT There are two items that we think must be included in OMB's regulatory analysis. First, universal waste will likely result in the most consistent set of state regulations. If Conditional Exemption prevails, many states will opt for stricter regulation and this will have additional costs.

RESPONSE

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval. EPA furthermore notes that states can be more stringent if they so choose.

DCN FLEP-00302

COMMENTER Conserve Electric Company, Inc.

SUBJECT STAUTH

COMMENT Our company has had significant difficulty in obtaining consistent advice from regulatory agencies in the proper procedure for disposing of lamps. Each government agency seems to have a different interpretation of requirements, providing little confidence that our company is in compliance. EPA should

act quickly to eliminate current confusion, reduce building maintenance costs, and gain the full benefits of energy efficient relamping by promulgating the conditional exclusion.

RESPONSE

Today's final rule adds hazardous waste lamps to the scope of the universal waste rule. The universal waste rule provides a reduced, or streamlined set of requirements for the management of certain widely-generated hazardous wastes, but also allows the Agency to set specific management standards to control potential emissions from particular wastes. The potential for mercury emissions occurs when hazardous waste lamps are not managed in a protective manner. Studies conducted by the Agency indicate that the greatest potential for mercury emissions from spent lamps occurs during storage and transport. The universal waste rule provides standards to minimize mercury emissions during storage and transport.

In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

Today's rule becomes effective in states that are not authorized for the Federal Subtitle C hazardous waste program, and will not be effective in authorized states until the state revises its program to adopt equivalent requirements under state laws and obtains authorization. However, a number of states already have either added hazardous waste lamps to their universal waste programs or are proposing to do so. EPA is encouraging states to adopt today's final rulemaking that adds hazardous waste lamps to the Federal universal waste program.

EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking. As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00303
COMMENTER IllumElex Corporation
SUBJECT STAUTH

COMMENT IllumElex has had great difficulty in getting advice from regulatory agencies in the proper procedures for disposing of lamps. This confusion carries over into the private sector as well. Everyone, government and private companies, have a different interpretation of the requirements, providing little confidence that our company is in compliance. The EPA should act quickly to eliminate confusion and gain the full benefits of energy efficient relamping by putting in effect the conditional exclusion.

IllumElex Corporation operates in 33 states. We need the EPA to take the leadership on the lamp disposal issue by passing the conditional exclusion. We face the prospect of dealing with several regulations as states move to develop their own regulatory practices. This will lead to total chaos within the lighting management business. We will not be in position to advise our customers based upon these problems. We need a uniformed approach to educate our customers about the safe handling of disposed lamps and to continue to make this a more energy efficient nation.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste

lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00304

COMMENTS A&K Service Corporation

SUBJECT STAUTH

COMMENT One other problem we have encountered at A&K is obtaining consistent advice from any regulatory agency regarding proper disposal of mercury containing lamps. It seems that each government agency has a different interpretation of requirements and this provides A&K with little piece of mind that it is in compliance with these regulations.

A&K Service Corporation operates in 31 different states. We feel that if the EPA does not exercise leadership on these issues by delaying or failing to finalize the conditional exclusion, we face the prospect of spent lamps being regulated in a variety of different ways across the county, as states move to adopt their own regulatory schemes. This would make it almost impossible for our company to design and implement company- wide policies and procedures for lighting upgrades and lamp disposal. Further it is extremely difficult to advise our clients and customers as to their approach of handling this problem. We feel that this would result in the agency failing to achieve or delaying the achievement of the environmental goal of reducing air emissions from electric power generation through the implementation of broad-scale energy efficient lighting programs. If the current confusion is allowed to continue, the amount of time it takes to educate the generators on proper handling of waste is also extended. This causes a great number of generators to continue unregulated disposal of this waste. By adopting a uniform national approach to this problem, A&K will be able to move quickly to educate our customers on proper handling of their fluorescent and HID lamps.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria

established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00306

COMMENTS Lighting Maintenance and Service, Inc.

SUBJECT STAUTH

COMMENT Our company has encountered great difficulty in procuring consistent information and advice from regulatory agencies regarding the proper disposal of lamps. This seems to be an issue of interpretation within the various agencies, which

leaves us uncertain if we are in compliance, in spite of our efforts comply. EPA should respond immediately to eradicate this confusion, reduce building maintenance costs, and achieve the entire benefit of energy efficient relamping by promulgating the conditional exclusion.

Our final area of concern stems from our operating in multiple states. If EPA neglects to provide leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, we will be faced with the possibility of spent lamps being regulated in a broad range of state imposed regulatory schemes. This would make company-wide procedures difficult to implement and maintain, and also make it difficult to advise our clients. This would also prolong the uncertainty within the regulated community about the compliance options that are available. The end result will be the failure of the agency to achieve the environmental goal of reducing air emissions from electric power generation through the implementation of broad-scale energy efficient lighting programs. The current confusion is responsible for a large percentage of generators continuing to dispose of mercury- containing lamps in an unregulated waste stream. LMS is ready to begin to educate our customers on the proper handling of their fluorescent and HID lamps, and will do so, as soon as a uniform national approach is in place.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal

waste rule is not adopted by all states. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized today should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN FLEP-00308

COMMENTS All-Phase Construction

SUBJECT STAUTH

COMMENT Action other than conditional exclusion would open the country to variations of regulations from state to state. Such as the ones complicating other industries causing even more confusion and possible violations.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

The Agency disagrees with the commenter's assertion that the conditional exclusion is the only option that would not result in variation among states. In fact, it was more likely that some states would not adopt the conditional exclusion. As with this universal waste rule, the states would not have been required to adopt the exclusion. The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the

management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

DCN FLEP-L0001

COMMENTER Environmental Technology Council

SUBJECT STAUTH

COMMENT Most states have stated that they prefer the universal waste option for fluorescent lamps to the conditional exemption, and would therefore not be expected to adopt the conditional exemption approach. Thus, the conditional exemption would likely apply to a relatively small number of states. Even these states would not necessarily allow fluorescent lamps at all landfills. This would create a wide disparity in the management of fluorescent lamps from state to state and likely within some states, a generally undesirable and confusing situation. In some states, used fluorescent lamps would be hazardous wastes, and in some states they would not. Even within a state, in some cases a used lamp could be a hazardous waste and in some cases not, depending upon where the lamps were being sent.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

EPA believes that more states are likely to adopt the universal waste approach and in fact, is encouraged by the number of states which have already done so or are proposing to do so. The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

DCN FLEP-L0001

COMMENTER Environmental Technology Council

SUBJECT STAUTH

COMMENT Further, a new conditional exclusion would require new enforcement attention to ensure that generators comply with the

conditions of the exclusion. But with state enforcement resources for the solid waste program already extremely thin, at best, not much enforcement attention could be devoted to the problem. Consequently, the public would have little assurance that discarded lamps were being disposed of properly.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-L0001

COMMENTER Environmental Technology Council

SUBJECT STAUTH

COMMENT Further, inasmuch as the conditional exclusion would be a relaxing regulation, states would not be required to adopt it and could instead adopt a range of more stringent regulatory requirements. Clearly, many states that are very concerned about the fluorescent lamp problem, and have already promulgated their own aggressive rules and policies on the subject, would not adapt a conditional exemption regulation. EPA's "Lighting Waste Disposal" (p.9) identifies eleven states that had regulations on used fluorescent lamps more stringent than the conditional exemption option as of January 1994 (not just three states, as suggested in the Preamble to the proposed regulation). Additional states are considering such regulations.. C. Inclusion of Fluorescent Lamps in the universal waste rule Would Eliminate Any Confusion Many states have supported the inclusion of fluorescent lamps in the universal waste rule, [29] [Footnote 29: Letter from the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) to Mr. Michael Shapiro, EPA, January 20, 1994 (copy attached). (See hard copy of Comment FLEP-L0001 for attachment.)] and some states have already promulgated regulations for fluorescent lamps patterned after the universal waste rule. Thus, if EPA were to include fluorescent lamps in the Federal universal waste rule there is every reason to believe that the states would follow suit. If EPA adopts the universal waste option, the lamps would remain

hazardous in those states that do not follow EPA's lead. Thus, there could not be a situation under a Federal universal waste rule for used fluorescent lamps where lamps were hazardous in some states but not in others, as would happen under the conditional exemption approach.

As a result of this concern, and despite EPA's continued contemplation of an exclusion for fluorescent lamps, over a dozen states have already issued regulations or policies explicitly requiring hazardous waste disposal or recycling of used fluorescent lamps, and more are actively considering doing so. [31] [Footnote 31: "Lighting Waste Disposal," pp.8-9.] Some of the states had actually adopted a universal waste approach for fluorescent lamps, even before EPA had officially proposed that option. The majority of the states responding to the ASTSWMO survey preferred that approach. [32] [Footnote 32: ASTSWMO letter, p.1.]

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps.

EPA believes that more states are likely to adopt the universal waste approach and in fact, is encouraged by the number of states which have already done so or are proposing to do so. The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly encourages them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim, which will help ensure consistency across states.

DCN FLEP-L0006

COMMENTS National Food Processors Association

SUBJECT STAUTH

COMMENT NFPA strongly supports the Agency's plan to encourage the States' to modify their programs to incorporate the final Federal regulation for mercury-containing lamps. In addition to encouraging the energy savings associated with mercury-containing lamps, adoption of the Federal regulation could encourage establishment of appropriately designed and operated reclamation facilities and stimulate environmentally sound recycling.

RESPONSE

Because EPA believes that adoption of this rule would provide a nationally consistent and protective method for managed hazardous waste lamps, EPA urges the states to adopt this rule. The Agency is encouraged by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

Furthermore, the regulatory approach finalized should not impact participation in energy-efficient lighting programs such as EPA's Green Lights Program. The universal waste standards are less stringent and less costly than full Subtitle C standards. The reduced waste management costs associated with the final lamps rule may encourage additional participation in energy-efficient lighting programs and increase recycling of spent lamps.

DCN SCSP-L0009

COMMENTS National Electric Manufacturers Assn.

SUBJECT STAUTH

COMMENT The spent lamps are a regulated hazardous waste, but EPA and the States are not undertaking enforcement action against lamps going to Subtitle D disposal facilities, storage facilities, or recycling facilities. States are in the awkward position of allowing, and even sometimes recommending that relampers not comply with their authorized Subtitle C programs to facilitate management of lamps at recycling centers and storage areas. This could ultimately result in withdrawal of the State program or citizen suits against relampers or recyclers/reclaimers.

RESPONSE

In today's rule, the Agency is not finalizing the conditional exclusion option for the management of hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards). EPA will work with the states during the state authorization process to facilitate consistent implementation and enforcement of today's rulemaking.

DCN FLEP-L0014

COMMENTS General Electric

SUBJECT STAUTH

COMMENT 3. EPA Would Clarify Issues for States Choosing to Implement

Universal Waste. We see three important areas where EPA guidance is needed to States choosing to add lamps to their universal waste programs: A. Provide general guidance to states on adding lamps to Universal Waste to promote consistency. This would include the following types of items: 1. Whether lamp storage is allowed at recycling facilities without a permit. 2. Whether recycling facilities that trap mercury in phosphor or carbon filters for later recovery at an off-site facility are recycling facilities or treatment facilities. 3. Whether LDR requirements apply to land-applied glass products leaving lamp treatment/recycling facilities. 4. Whether mobile treatment units including crushers are allowed under a Universal Waste framework. B. Clarify for protective on-site crushing is allowed under Universal Waste as long as it meets ' 262.34 generator standards. C. Recommend that States closely supervise reclamation facilities and identify appropriate BMPs.

Benefits to States: The approach we are suggesting gives States the full range of legally available regulatory options, while at the same time providing States with necessary guidance on implementing one of those options: Universal Waste. Given that Universal Waste was not specifically designed for lamps or breakable materials in general, the additional guidance and clarification we have suggested for this rule will provide for both consistency among States, and for a management system that is tailored to the unique properties of lamps and lamp reclamation. This approach gives States flexibility to develop the best program given their unique circumstances. We are already aware of certain States that are developing lamp

regulatory programs with significant variations on the universal Waste system. Variations that are, in fact, not allowed under Universal Waste. We believe States are deviating from universal Waste because they recognize it is not a system designed for lamps. Examples of deviations from Universal Waste include: No requirements for storage permits at reclamation facilities even if lamps are stored over 24 hours, implicitly waiving financial assurance and corrective action; No requirements for treatment permits at reclamation facilities, even if there is no direct mercury product stream coming from the facility (i.e., only a glass or metal stream), implicitly waiving financial assurance, corrective action, closure plans, waste analysis plans, contingency plans, etc.; No land disposal restriction notification or requirements that products which are land-applied meet universal treatment standards; Classification of spent lamps going to recycling as byproduct material which is not a solid waste; and No biennial reporting for recycling or storage facilities. Our concern is not whether these types of implementation approaches are protective, but whether they can be made to fit within Universal Waste. Our reading of universal Waste leads us to believe that they do not fit and their existence in States will continue to create serious enforcement precedence problems for EPA's Universal Waste program and continued concerns for generators who, by following States guidance, violate Federal RCRA requirements. This subjects them to citizen suits or EPA enforcement. It also raises SEC compliance disclosure issues. Thus, flexibility allows States to adopt program variations without encountering these concerns. It allows States to account for differences in the types of lamps being managed, in the types of technologies, variations in treatment and disposal capacity, and in population densities.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

Universal wastes must ultimately be managed at destination facilities (e.g., recycling or treatment and disposal facilities) that are in compliance with all applicable Subtitle C hazardous waste management requirements, including the permitting provisions of 40 CFR Part 264 and the land disposal restrictions (LDR) of Part 268. Recycling facilities that store universal wastes prior to

recycling must obtain a RCRA permit for their storage activities. In addition, facilities that treat universal wastes must obtain a RCRA permit for these activities. Facilities that trap mercury in phosphor or carbon filters for later recovery at an off-site facility are engaging in treatment activities and must obtain a RCRA permit unless they are complying with the generator accumulation standards in 40 CFR 262.34. Hazardous waste recycling facilities that do not store hazardous wastes prior to recycling may be exempt from permitting under Federal regulations (40 CFR ' 261.6(c)(2)).

The current universal waste rule prohibits universal waste handlers from treating universal wastes (40 CFR ' 273.11 and 273.31). The final rule for hazardous waste lamps retains the treatment prohibition for universal waste handlers and applies the prohibition to handlers of hazardous waste lamps. The definition of treatment under RCRA includes ~~A~~any method, technique, or process...designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store or dispose of; or amendable for recovery, amendable for storage, or reduced in volume.® The shredding or crushing of hazardous waste lamps clearly falls within the definition of treatment under RCRA (40 CFR 260.10).

Some commenters to the proposed spent mercury-containing lamps rule requested that the Agency allow generators of such lamps to crush them on-site before sending them off-site for treatment or disposal. However, as explained in the preamble to the final universal waste rule (60 **FR** 25519), the Agency believes that it is not appropriate to allow universal waste handlers to treat universal wastes because the handlers are not required to comply with the full Subtitle C hazardous waste management standards for generators (40 CFR Part 262). These hazardous waste generators must obtain EPA identification numbers, are subject to the 90-day (or 180-day) accumulation limit, and must comply with the technical standards of 40 CFR Part 265 for storage and accumulation units. Because these standards are relatively stringent, EPA's policy is that generators may treat hazardous wastes on-site, provided that they comply with all applicable requirements of 40 CFR Part 262 for storage and accumulation of hazardous wastes.

Universal waste handlers, on the other hand, are allowed a much longer accumulation time limit of one year and need not comply with specific technical standards for accumulation and storage units. Instead, they are subject only to the general performance standard of managing universal wastes in a manner ~~A~~that prevents releases®to the environment. In addition, information available to the Agency on drum top crushing systems for lamps indicates that these units may allow significant air emissions of mercury, particularly when the units are not in operation, and emissions often may exceed the OSHA limit of 0.05 mg/m³.

For these reasons, the Agency is not allowing crushing of hazardous waste lamps under Federal regulations. However, generators located in a state with an authorized universal waste program may be allowed to crush, universal waste lamps, if within the state authorization process the

Agency determines that a state's program allowing generators to treat lamps under controlled or restricted conditions is equivalent (per RCRA ' 3006) to the Federal prohibition. EPA believes that this approach both ensures protection of human health and the environment while allowing for the development of state regulatory programs that include specific standards for the safe crushing of hazardous waste lamps.

Today's amendments to the hazardous waste regulations are not effective in authorized states since the requirements are not being promulgated pursuant to HSWA. Thus, the universal waste standards are applicable as part of the RCRA program upon the effective date only in those states that do not have final RCRA authorization. In authorized states, the amendments will not be effective until the state revises its program to adopt equivalent requirements under state law and is authorized by EPA for the amendments. The amendments in today's rule are not considered to be more stringent than the existing Federal requirements. Therefore, authorized states are not required to modify their programs to adopt requirements equivalent to the provisions contained in today's rule. However, the Agency is encouraging them to do so.

The Agency believes that adoption of the universal waste rule by each state would provide a nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are therefore urged to adopt today's rule and submit to EPA the program modification for approval.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization guidance will be available on the State Authorizations Bulletin Board system. These efforts may encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.

DCN FLEP-00236

COMMENTS Conservation Lighting, Inc.

SUBJECT STAUTH

COMMENT The Conservation Lighting Company operates in many states. If

EPA fails to exercise leadership on the lamp disposal issue by delaying or failing to finalize the conditional exclusion, our company faces the prospect of spent lamps being regulated in a wide variety of different ways across the country, as states move to adopt their own regulatory schemes. Such variations make it extremely difficult to design and implement company-wide policies and procedures with respect to lighting upgrades and lamp disposal or recycling. Further, it is extremely difficult to advise our clients and customers as to their approach of

handling this problem. It also prolongs the tremendous uncertainty within the regulated community about the compliance options that are available. The end results is that the agency will either fail to achieve or delay the achievement of the environmental goal of reducing air emissions from electric power generation through the implementation of broad-scale energy efficient lighting programs.

RESPONSE

Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The Agency has determined that hazardous waste lamps meet most of the criteria established for designating a material as universal waste. The universal waste rule provides a reduced, or streamlined set of requirements, less stringent than full Subtitle C management standards, for generators, collectors, and transporters of universal waste.

The Agency believes that today's rule may reduce much of the current confusion over the regulatory status of spent lamps. Adoption of the universal waste rule by each state would lead to nationally consistent method for managing spent hazardous waste lamps. This would be especially beneficial for those entities that operate in multiple states. EPA believes that today's rule, which offers a new, streamlined approach to the management of hazardous waste lamps, will contribute to more efficient and effective state programs. For these reasons, states are urged to adopt today's rule and submit to EPA the program modification for approval.

The Agency appreciates the challenges faced by companies operating in multiple states under differing regulatory schemes. EPA also understands that difficulties may arise if the universal waste rule is not adopted by all States. Because today's rule is less stringent than the existing requirements for managing hazardous wastes, authorized states are not required to adopt the universal waste regulations. The Agency cannot force states to adopt the universal waste rule in lieu of the more stringent standards, though it strongly urges them to do so. The Agency is encouraged, however, by the number of states which have already either added hazardous waste lamps to their universal waste programs or are proposing to do so. Some states have even suggested that they will adopt the rule verbatim.

As an incentive for states to adopt the universal waste regulations, EPA is planning to use a streamlined application procedure which will reduce in scope several components of the program revision application. Electronic versions of this rule and its associated authorization checklists will be available on the State Authorizations Bulletin Board system. The Agency believes that these efforts will help encourage most, if not all, states to adopt the universal waste regulations within a reasonable time period.