

US EPA ARCHIVE DOCUMENT

DCN FLEP-00013

COMMENTER Coors Brewing Company

SUBJECT SUN

COMMENT Finally, Coors recommends that a five-year sunset provision be added to the exclusion. At that time the issue can be revisited to determine if exempting the lamps from regulation has continued to support the existing data and interpretations or if potential harm to human health and the environment from this exemption seems likely. It may be possible that even fewer controls are needed for safe management of lamps.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00025

COMMENTER Environmental Energy Group/NAEP

SUBJECT SUN

COMMENT POSITION We support the selection of Option 2 with a five year sunset provision.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00025

COMMENTER Environmental Energy Group/NAEP

SUBJECT SUN

COMMENT We strongly favor the use of a sunset provision for all materials listed as Universal Waste. This insures a timely review of potential industry efforts and actual achievements to reduce and/or eliminate contaminants in targeted product groups. Sunset provisions may vary by product type or group to account for life cycle differences between products, individual industry capabilities, and verifiable activity toward product detoxification.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00030

COMMENTER Laidlaw, Inc.

SUBJECT SUN

COMMENT Another area of the proposed rules that we would like to comment on is the proposed sunset provisions for automatically reconsidering the exclusion. We are confident that mercury-containing lamps can be managed as a non-hazardous waste in a Subtitle D landfill. Reviewing this rule in 3 to 5 years

would detract from other pressing environmental concerns. The agency does have the right to reconsider any rule in the future and should if evidence of problems surfaces, based on the exclusion. A sunset provision should not be a part of this rule, it serves only to confuse the status of the waste.

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 governing 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.

The Agency agrees with the commenter and is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00038

COMMENTS US West Business Resources, Inc.

SUBJECT SUN

COMMENT 2. Sunset provision - A three to five year sunset provision for re-evaluation of the exclusion seems appropriate.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00044

COMMENTS Solid Waste Association of North America

SUBJECT SUN

COMMENT In addition, SWANA supports a sunset provision which would allow EPA to reconsider regulating these wastes under Subtitle D when additional information becomes available through studies by EPA and/or OSHA and other data gathering mechanisms.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00054

COMMENTER U.S. Department of Interior

SUBJECT SUN

COMMENT The following comments are provided to the proposed rules published on July 27, 1994 concerning the modification of the hazardous waste program for mercury-containing lamps. As a Federal organization whose mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner, we are considering significant relighting efforts at a number of our offices to increase energy conservation. As part of this mission we support the disposal of lamp waste in an environmental-sound manner. Since the risk of potential mercury release from landfills is not well understood, we suggest waste mercury containing lamps be managed under the Universal Waste Management System (option B) with sunset provisions and no specific record keeping for lamp shipment.

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 governing 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.

Small quantity handlers are not required to keep records of shipments of universal waste lamps. Large quantity handlers must track waste lamp shipments by maintaining records documenting shipments received by and sent from the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The Agency believes that standard business records that are normally kept by businesses will fulfill this requirement. The Agency believes that these requirements provide consistency with the current universal waste rule. The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00059
COMMENTS Connecticut Dept. of Env. Protection
SUBJECT SUN
COMMENT f) Include a 3-5 year sunset provision.
RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00070
COMMENTS Univ. of Texas Office of Env. Affairs
SUBJECT SUN
COMMENT A sunset provision, evaluation of effectiveness, should be a

part of any final rule. Also, if data becomes available which determines that disposal of these materials in any landfill does not present an environmental or public threat, further changes should be made to the rule.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00076

COMMENTS The Southland Corporation

SUBJECT SUN

COMMENT We feel a 5 year sunset provision is appropriate to review 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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

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DCN FLEP-00080

COMMENTS City of Colorado Springs

SUBJECT SUN

COMMENT First, current data has indicated that the disposal of

mercury-containing lamps in municipal solid waste (MSW) landfills does not pose a significant threat to human health or the environment. Therefore, regulating mercury-containing lamps as hazardous waste is not warranted at this time. The City, however, recommends the inclusion of a five year sunset provision to allow the Agency to re-evaluate its position if new data suggests that mercury-containing lamps are a much larger problem than current data indicates.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00084

COMMENTER Jeff Carmichael

SUBJECT SUN

COMMENT (3) [R]equire the recycling of large volumes of lamps, use the rule's sun set provision to continue the study of mercury-containing lamp management issues, and then in three to five years require 100 percent recycling of lamps, if the study indicates 100 percent recycling is feasible.

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 governing 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.

Today's final rule ensures protection of the environment while allowing flexibility in the management of hazardous waste lamps. 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 treatment and disposal or recycling of hazardous waste lamps. Today's final rule does not mandate that hazardous waste lamps be recycled. However, given that the universal waste management standards represent a significant reduction in waste management costs over the costs associated with the full Subtitle C requirements, significantly more quantities of hazardous waste lamps may be collected and made available for recycling.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00088

COMMENTER S.C. Johnson and Son, Inc.

SUBJECT SUN

COMMENT Finally, SC Johnson would support a sunset provision to review the matter in 3 to 5 years, in order to evaluate progress in this matter and review any new relevant evidence.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00101

COMMENTER Montana-Dakota Utility Company

SUBJECT SUN

COMMENT 7. The three to five year sunset provision is not needed.

EPA has come to the conclusion that light bulb waste does not cause significant harm to human health and the environment when disposed of in ordinary landfills. As discussed in the Federal Register, the mercury content in new light bulbs is declining. So the risk from this waste stream is also declining. If EPA thinks that the issue needs to be addressed again in the future, they have the authority to readdress the issue.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

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DCN FLEP-00107

COMMENTER North Carolina Dept. of Env. Health

SUBJECT SUN

COMMENT NC DEHNR appreciates the consideration of these comments in the rulemaking process and hopes that the final rule will be promulgated within the next year. A sunset provision of three to five years on the final rule seems adequate. As with all waste management issues, North Carolina encourages legitimate recycling efforts, and looks forward to working with manufacturers to reduce hazardous constituents at the source.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps

rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00126

COMMENTER Texas Natural Resource Cons. Comm.

SUBJECT SUN

COMMENT A sunset provision should be incorporated into the rule to review it after three years for possible improvements.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00130

COMMENTER U.S. Department of Energy

SUBJECT SUN

COMMENT 8. EPA requests comment on whether to include a 3 to 5 year sunset provision on the universal waste system for lamps (59 FR 38297). DOE does not support the proposed 3 to 5 year sunset provision for the universal waste approach. Under existing RCRA authority, EPA can reevaluate the exclusion at any time and can rescind the exclusion if necessary. Therefore, there is no real benefit to including a sunset provision in the proposed regulation.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00150

COMMENTER Anchorage Municipal Light and Power

SUBJECT SUN

COMMENT Finally, AML&P supports a five year sunset provision for the exclusion, which would allow for the rational examination of new or previously unconsidered information regarding the ultimate environmental fate of mercury from landfilled mercury-containing lamps.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT SUN

COMMENT NEMA proposes that the landfilling exclusion be accompanied by a sunset provision that requires EPA to initiate three years after promulgation a study of the availability of cost-effective and quality recycling, the safety of end-use product applications, and any new risk data on landfilling, especially mercury mobility and air emissions. The landfilling exclusion would remain in place until EPA determines that sufficient regional and national recycling capacity exists for all lamp types, that safe and appropriate markets exist for recovered products, and that the risk of landfilling is both greater than recycling and greater than indicated at the time of promulgation. This sunset provision provides generators with safe disposal options that

are needed at present, and allows time for a fully protective national recycling infrastructure to be established.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00156

COMMENTER National Electrical Manufacturers Assn.

SUBJECT SUN

COMMENT (vi) Three years after promulgation of this exclusion for spent mercury-containing lamps, EPA shall initiate a study to evaluate the availability of cost-effective and quality recycling of spent lamp, the safety of end-use product applications, and any new risk data on landfilling especially air emissions. The provisions promulgated in 261.4(b)(16) shall remain in place until EPA determines that sufficient regional or national recycling capacity exists for all lamp types, that safe and appropriate markets exist for recovered products, and that the risk of landfilling is greater than recycling and greater than indicated at the time of promulgation.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00160

COMMENTER Central and South West Services, Inc.

SUBJECT SUN

COMMENT CSW opposes the codification of a three to five year sunset provision on either management option but supports a general examination of the management option after such time.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00160

COMMENTER Central and South West Services, Inc.

SUBJECT SUN

COMMENT VII. THE THREE TO FIVE YEAR SUNSET PROVISION SHOULD NOT BE CODIFIED. EPA has proposed a three to five year sunset provision on the conditional exclusion. 59 Fed. Reg. at 38295. While examination of the conditional exclusion after three to five years is a reasonable concept, it is not necessary to codify, this concept into the regulatory system to ensure that EPA revisit this issue. Such a provision would introduce elements of uncertainty into the program, and could, in fact, decrease participation in the program. Moreover, CSW strongly opposes any rule under which the program would automatically expire at the end of the three to five year sunset period. Such a rule

would result in needlessly revisiting the very same issues upon which EPA seeks comment in this rulemaking. If the conditional exclusion is implemented, it must remain in effect until EPA affirmatively acts to change it.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00162

COMMENTER Delaware Department of Natural Resources

SUBJECT SUN

COMMENT Sunset Provision - A three to five year sunset provision should be included in the UWR because this will allow all concerned parties to re-evaluate the effectiveness of managing mercury containing lamps in the UWR.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00165

COMMENTER Ohio Chamber of Commerce

SUBJECT SUN

COMMENT We feel a 5 year sunset provision is appropriate to review the conditional exclusion.

RESPONSE

The Agency is not including a sunset provision with today's final rule which adds hazardous waste lamps to the universal waste rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00166

COMMENTER American Electric Power Service Corp.

SUBJECT SUN

COMMENT III. A SUNSET PROVISION IS NOT NEEDED. EPA requested comments on the need for including a sunset provision in either option.

In the case of Option 1, such a provision would allow EPA to "re-evaluate the exclusion after a period of three to five years, to determine whether the exclusion is appropriate for lamps given any unanticipated management or risk issues that develop as a result of the exclusion" (see 59 FR 38295, 1994, Column 1). We agree that if unanticipated risks result from the exclusion, EPA should reevaluate their position on the issue. EPA has always had the authority to promulgate rules as needed to protect human health and the environment. However, a sunset provision is not necessary to reinforce this fact. If it is necessary to re-evaluate the exclusion in the future, EPA can do so at that time. Given that EPA has limited resources to dedicate to a seemingly unlimited number of issues, the Agency should not require itself to completely reevaluate this issue at a set date. Furthermore, based on the rulemaking record which demonstrates that disposing of lighting waste in solid waste landfills will not present a perceptible increase in risk, there is no justification for EPA taking such a tentative approach in correcting the problem or overly stringent regulation of lighting waste. As a practical matter, such a sunset provision will create problems for long-range planning of lighting upgrades and unnecessarily confuse the regulated community. Therefore, AEP does not support the inclusion of a sunset provision in the conditional exclusion.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00170

COMMENTS National Assn. of Energy Services Comp.

SUBJECT SUN

COMMENT C. The EPA Should Provide for the Re-evaluation of Regulatory Management Practices Adopted at This Time. The data on mercury entering the environment as the result of lamp disposal and recycling, particularly air emissions from breakage and levels of contaminant in lamp subcomponents, does not appear to be conclusive at this time. In addition, technologies for reducing lamp volume through crushing and recycling technologies for large-scale reclamation are still being developed and coming into wide-spread use. For these reasons alone, the EPA, would not appear to be in a position at this time to formulate a permanent regulatory regime for the management of spent mercury-containing lamps. Therefore, NAESC would encourage the EPA to incorporate a provision for the review and re-evaluation of its regulatory management regime within a relatively short time period -- perhaps on the order of three to five years. This will enable the EPA to evaluate further the data on mercury releases, and will provide an opportunity to assess the success of the measures imposed for lamp handling and disposal or

recycling. In addition to assessing the success of these measures, the EPA will be in a position to weigh the capacity and capabilities of the recycling industry as it has developed. In addition, by adopting a permanent position on a preferred method for the management of spent lamps and providing for review rather than a sunset, the EPA gives notice that handling practices may be revised. At the same time, however, the EPA will send a clear signal to investors that the Agency is committed to recycling, thus further encouraging the development of this industry.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00171

COMMENTS Monsanto Company

SUBJECT SUN

COMMENT 3. The Agency Should Not Sunset the Conditional Exclusion After 3-5 Years. EPA asks for comments on whether they should have a 3 to 5 year sunset provision on the conditional exclusion.

Monsanto Company believes that any such exclusion would be ill-advised and should not be utilized. With the passage of time, generators and municipalities will establish the infrastructure and operations necessary to implement this rule; that infrastructure and operation should not be jeopardized by a sunset provision, a provision that kicks in automatically even if EPA fails to act in a timely manner. The Agency always has the opportunity to review the operation of an existing regulation and to modify that operation if needs arise. Special sunset provisions are not warranted in this situation or in most other regulatory situations. They are most uncommon under RCRA.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00174

COMMENTER Illuminating Engineering Soc. of N. Am.

SUBJECT SUN

COMMENT Regulations revisited IESNA fully supports a 5 year sunset provision, and believes it is most appropriate to review the conditional exclusion by that point.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP- 00175

COMMENTER AT&T

SUBJECT SUN

COMMENT The Agency requests comment regarding application of a sunset provision which will require the EPA to reevaluate effectiveness of the final rule. AT&T recommends the application of a three (3) year sunset provision.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00176

COMMENTER Coalition of Lamp Recyclers

SUBJECT SUN

COMMENT The Coalition of Lamp Recyclers does not support a sunset provision. There is ample evidence of mercury accumulation in the environment right now. Allowing additional mercury to enter the environment does nothing but add to the problem. EPA is fully aware of the numerous states with mercury advisories. Measures have to be taken to prevent further environmental loading of mercury. The management of mercury-containing lamps through recycling can remove the mercury emissions to a much greater degree than dumpsters, landfills, and MSW incinerators.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00177

COMMENTER Philips Lighting Company

SUBJECT SUN

COMMENT The addition of a sunset clause allows the Agency to reexamine the issue in three years and reevaluate its position.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00179

COMMENTS Environmental Defense Fund

SUBJECT SUN

COMMENT Since there is no expectation for further major source reduction of mercury in fluorescent lamps, a sunset provision for the proposed rule serves no purpose. If a major change in technology were to occur that would reduce mercury content significantly below current expectations, the rule could be revised to address the new developments. Further, a sunset provision can be a disincentive to start-up spent lamp recycling businesses because it shortens their known planning horizon for recovery of capital costs and can inhibit capital investment in operations improvements for facilities in place. To date, most of the fluorescent lamp recycling companies have been small businesses that depend on initial funding from the capital market. [9] [Footnote 9: Private communication with Barbara Bankoff, representing the National Electrical Manufacturers Association, and Peter Bleasby of Osram Sylvania, October 31, 1994.]

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00180

COMMENTS Food Marketing Institute

SUBJECT SUN

COMMENT Regarding the suggested five-year sunset provision, FMI believes EPA should instead provide for a review of the conditional exclusion. Rather than assume the exclusion needs to terminate, in five years EPA can assess its efficacy and whether or not it is posing dangers to the environment. If there are problems, EPA can modify, the exclusion or eliminate it.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00181

COMMENTS Exxon Chemical Americas

SUBJECT SUN

COMMENT No sunset provision should be included in the final rule. EPA has the authority to revisit rules and regulations. Establishing sunset provisions institutionalizes higher regulatory costs.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00182

COMMENTS Eastman Kodak Company

SUBJECT SUN

COMMENT There does not need to be a 3 to 5 year sunset provision attached to the exclusion. This would only "clutter up" the regulations with additional complexity and would become a burden when the states start picking up this exclusion at different times. The Agency always has the option of reevaluating the exclusion in the future and modifying it as it sees fit. If there is no sunset provision included, and the agency is satisfied that no unanticipated issues develop in the future, there would be no need for an additional rulemaking to remove the sunset and extend the exclusion.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00187

COMMENTS PacifiCorp

SUBJECT SUN

COMMENT (7)PacifiCorp opposes the codification of a three to five year sunset provision on either management option.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00187

COMMENTS PacifiCorp

SUBJECT SUN

COMMENT VII. THE THREE TO FIVE YEAR SUNSET PROVISION SHOULD NOT BE CODIFIED EPA has proposed a three to five year sunset provision

on the conditional exclusion. 59 Fed. Reg. at 38295. While examination of the conditional exclusion after three to five years is a reasonable concept, it is not necessary to codify this concept into the regulatory system to ensure that EPA revisit this issue. Such a provision would introduce elements of uncertainty into the program, and could, in fact, decrease participation in the program. Moreover, PacifiCorp strongly opposes any rule under which the program would automatically expire at the end of the three to five year sunset period. Such a rule would result in needlessly revisiting the very same issues upon which EPA seeks comment in this rulemaking. If the conditional exclusion is implemented, it must remain in effect until EPA affirmatively acts to change it.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00189

COMMENTER National Aeronautics and Space Admin.

SUBJECT SUN

COMMENT A sunset provision should only be included if the Agency can realistically meet the deadline.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies

and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00191

COMMENTER Utility Solid Waste Activities Group

SUBJECT SUN

COMMENT USWAG opposes the codification of a three to five year sunset provision on either management option but supports a general examination of the management option after such time.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00191

COMMENTER Utility Solid Waste Activities Group

SUBJECT SUN

COMMENT VIII. THE THREE TO FIVE YEAR SUNSET PROVISION SHOULD NOT BE CODIFIED EPA has proposed a three to five year sunset provision on the MSWLF option. 59 Fed. Reg. at 38295. While examination of the MSWLF option after three to five years is a reasonable concept it is not necessary to codify this concept into the regulatory system to ensure that EPA revisit this issue. Such a provision would introduce elements of uncertainty into the program, and could, in fact, decrease participation in the program. Moreover, USWAG strongly opposes any rule under which the program would automatically expire at the end of the three to five year sunset period. Such a rule would result in needlessly revisiting the very same issues upon which EPA seeks comment in this rulemaking. If the MSWLF option is implemented, it must remain in effect until EPA affirmatively acts to change it.

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 governing 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.

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00196

COMMENTS American Lighting Association

SUBJECT SUN

COMMENT We feel a 5 year sunset provision is appropriate to review the conditional exclusion.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the

behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00272

COMMENTS Detroit Edison Company

SUBJECT SUN

COMMENT Although examination of the conditional exclusion for lighting waste after 5 years is a reasonable concept, it is not necessary to put this concept into the regulations. It is appropriate for the Agency to regularly review all of its regulations, to determine if they are adequately protecting the public and the environment and not imposing unnecessary burdens on the regulated community. Unfortunately, the Agency's ability to conduct such a review is limited to its available resources. Depending on what other issues are being addressed by the Agency at the time of this 5 year review, review of the lighting waste may not have the greatest priority and the regulations should not dictate this review.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00280

COMMENTS Marathon Oil Company

SUBJECT SUN

COMMENT Nor does Marathon believe that a mandatory sunset provision is necessary, if there is a danger that a conditional exclusion or inclusion under the Universal waste management system would be terminated if the EPA was unable to complete its reevaluation within the allotted time period.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00282

COMMENTS Michigan Dept. of Natural Resources

SUBJECT SUN

COMMENT We urge EPA to build in an incentive to encourage lamp manufacturers to manufacture lamps with only three mg of mercury or less. After five to ten years, EPA could re-evaluate the regulations for lamps and other mercury-containing products. If lamp manufacturers continue to reduce the lamps to contain only three mg of mercury or less and these low mercury containing lamps were widely used the conditional exemption option could then be considered as the logical management option.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

Today's final rule, which retains requirements for hazardous waste lamps to ultimately be managed in accordance with the full Subtitle C hazardous waste management requirements, may provide incentives for lamp manufactures to pursue additional source reduction efforts to reduce or eliminate the amount of mercury used in the manufacture of fluorescent tubes. If source reduction is pursued aggressively by the fluorescent lamp manufacturing industry, the overall contribution of mercury from fluorescent lamps to municipal solid waste will decrease over time.

DCN FLEP-00294

COMMENTER El Paso Natural Gas Company

SUBJECT SUN

COMMENT Sunset Provisions EPA requested comment on whether to include a 3 to 5 year sunset provision for either management option selected. El Paso believes that EPA's normal rulemaking process should be sufficient address any future revisions needed in the selected management system. El Paso recommends that a sunset provision not be included in the final rules.

RESPONSE

The Agency agrees with the commenter and is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00296

COMMENTER State of Ohio EPA

SUBJECT SUN

COMMENT Sunset provision - A sunset provision would be appropriate if criteria of evaluation are determined. Currently, U.S. EPA states that it would re-evaluate the exclusion based on unanticipated management or risk issues that develop as a result of the management exclusion. U.S. EPA needs to include in its evaluation any research concluded during the sunset period. Further, U.S. EPA should identify research needs, provide funding for such research, and include any conclusions in the reevaluation process. This type of research would relieve many of the uncertainties and incomplete data surrounding fluorescent lamp management on which either management alternative is based.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to

the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-00301

COMMENTS Minnesota Pollution Control Agency/MPCA

SUBJECT SUN

COMMENT (3) We oppose the sunset option noted in the proposal. EPA already has the authority to revisit these issues if there is substantial new information or significant changes in lamp technology.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

DCN FLEP-L0014

COMMENTS General Electric

SUBJECT SUN

COMMENT In addition, by setting a relatively short deadline for the exclusion to expire, lamp, users will demand low mercury-containing lamps that will pass the TCLP correlation test.

RESPONSE

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the

environment and the potential releases of mercury to the environment to support today's final rule. The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.

Today's final rule, which retains requirements for hazardous waste lamps to ultimately be managed in accordance with the full Subtitle C hazardous waste management requirements, may provide incentives for lamp manufactures to pursue additional source reduction efforts to reduce or eliminate the amount of mercury used in the manufacture of hazardous waste lamps. If source reduction is pursued aggressively by the lamp manufacturing industry, the overall contribution of mercury from lamps to municipal solid waste will decrease over time.

DCN FLEP-00202

COMMENTS Union Camp Corporation

SUBJECT SUN

COMMENT We feel a 5-year

sunset provision is appropriate to review the conditional exclusion.

RESPONSE

The Agency does not believe that its proposed conditional exclusion approach would sufficiently protect human health and the environment. EPA gave considerable weight to actions that would minimize mercury emissions to the environment while encouraging the collection and environmentally-sound management of spent lamps. Based upon commenter input and additional information collected and reviewed by the Agency since the publication of the proposed rule, EPA decided to adopt the proposed universal waste approach for controlling potential risks from the management of spent hazardous waste lamps. Today's final rule adds hazardous waste lamps to the universal waste regulations under 40 CFR Part 273. The universal waste rule provides a reduced, or streamlined set of requirements (i.e., universal waste rule is less stringent than full Subtitle C management standards).

The Agency is not including a sunset provision with today's final rule. The Agency believes that the data and information provided to the Agency by commenters and the Agency's own studies and analyses that were conducted during the period of time since the mercury-containing lamps rulemaking was proposed provide adequate evidence of the behavior of mercury in the environment and the potential releases of mercury to the environment to support today's final rule.

The Agency notes, however, that should sufficient and compelling information related to the behavior of mercury become available in the future, the Agency can always re-evaluate the standards promulgated in today's final rule.