

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION

40 CFR Parts 9, 260, 261, 262, 264, 265, 266, 268, 270, and 273

[FRL-5201-3]

RIN 2050-AD19

Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program)

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 11, 1993, the Environmental Protection Agency proposed new streamlined hazardous waste management regulations governing the collection and management of certain widely generated wastes (batteries, pesticides and thermostats) known as universal wastes (58 FR 9346). Additional information was noticed for comment on June 20, 1994 (59 FR 31568). Today's final rule promulgates streamlined universal waste management regulations which are very similar to the February 11, 1993 proposal.

The new streamlined hazardous waste management regulations promulgated today govern the collection and management of certain widely generated wastes identified as universal wastes. This final rule will greatly facilitate the environmentally-sound collection and increase the proper recycling or treatment of hazardous waste nickel cadmium and other batteries, certain hazardous waste pesticides, and mercury-containing thermostats. The current RCRA regulations have been a major impediment to national collection and recycling campaigns for these wastes. This rule will greatly ease the regulatory burden on retail stores and others that wish to collect or generate these wastes. It should greatly facilitate programs developed to reduce the quantity of these wastes going to municipal solid waste landfills or combustors. It will, also, assure that the wastes subject to this system will go to appropriate treatment or recycling facilities pursuant to the full hazardous waste regulatory controls. It also will serve as a prototype system to which EPA may add other similar wastes in the future. A petition process is also included through which additional wastes could be added to the universal waste regulations in the future. These regulations are set forth in 40 CFR part 273.

EFFECTIVE DATE: This final rule is effective on May 11, 1995.

ADDRESSES: The official record for this rulemaking is identified as Docket Numbers F-93-SCSP-FFFFF and F-94-SCSA-FFFFF and is in the EPA RCRA Docket, located in Room

M2616, U.S. EPA (5305), 401 M Street SW., Washington, DC. 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260-9327. The public may copy a maximum of 100 pages from any regulatory docket at no cost. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For information concerning this final rule contact the RCRA Hotline toll free at (800) 424-9346. In the Washington, DC. metropolitan area, call (703) 412-9810. For further information regarding specific aspects of this notice, contact the Office of Solid Waste (5304), U.S. EPA, 401 M Street SW., Washington, DC. 20460. Additional copies of this rule and supporting documentation (e.g., fact sheet and summary of requirements) are available by mail by calling the RCRA Hotline. A supporting document containing the Agencies response to comments is available for review in the Docket for this rule.

>>>> Preamble has not been included in this file. <<<<

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended to read as follows:

>>>> Part 9 has not been included because it is not required as part of a State's Hazardous Waste Program. <<<<

PART 260-HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B-Definitions

2. Section 260.10 is amended by revising the introductory text and adding, in alphabetical order, definitions for "battery," "destination facility," "pesticide," "thermostat," "universal waste," "universal waste handler," and "universal waste transporter" to read as follows:

§ 260.10 Definitions.

When used in parts 260 through 266, 268, and 270 through 273 of this chapter, the following terms have the meanings given below:

* * * * *

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to

receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

* * * * *

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in paragraphs (a) and (c) of §§ 273.13 and 273.33 of this chapter. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

* * * * *

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA section 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this definition.

* * * * *

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 40 CFR 273.13(c)(2) or 273.33(c)(2).

* * * * *

"Universal Waste" means any of the following hazardous wastes that are managed under the universal waste requirements of 40 CFR part 273:

(1) Batteries as described in 40 CFR 273.2;

(2) Pesticides as described in 40 CFR 273.3; and

(3) Thermostats as described in 40 CFR 273.4.

* * * * *

"Universal Waste Handler":

(1) Means:

(i) A generator (as defined in this section) of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

(i) A person who treats (except under the provisions of 40 CFR 273.13 (a) or (c), or 273.33 (a) or (c)), disposes of, or recycles universal waste; or

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

* * * * *

"Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

* * * * *

Subpart C-Rulemaking Petitions

3. Section 260.20 paragraph (a) is revised to read as follows:

§ 260.20 General.

(a) Any person may petition the Administrator to modify or revoke any provision in parts 260 through 266, 268 and 273 of this chapter. This section sets forth general requirements which apply to all such petitions. Section 260.21 sets forth additional requirements for petitions to add a testing or analytical method to part 261, 264 or 265 of this chapter. Section 260.22 sets

forth additional requirements for petitions to exclude a waste or waste-derived material at a particular facility from § 261.3 of this chapter or the lists of hazardous wastes in subpart D of part 261 of this chapter. Section 260.23 sets forth additional requirements for petitions to amend part 273 of this chapter to include additional hazardous wastes or categories of hazardous waste as universal waste.

* * * * *

4. Section 260.23 is added to read as follows:

§ 260.23 Petitions to amend 40 CFR part 273 to include additional hazardous wastes.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of part 273 of this chapter may petition for a regulatory amendment under this section, 40 CFR 260.20, and subpart G of 40 CFR part 273.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR part 273: Is appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by 40 CFR 260.20(b). The petition should also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or category of waste addressed in the petition.

(c) The Administrator will grant or deny a petition using the factors listed in 40 CFR 273.81. The decision will be based on the weight of evidence showing that regulation under 40 CFR part 273 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The Administrator may request additional information needed to evaluate the merits of the petition.

PART 261-IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

5. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

Subpart A-General

6. Section 261.5 is amended by revising paragraphs (c), (f)(3), and (g)(3) to read as follows:

§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

* * * * *

(c) When making the quantity determinations of this part and 40 CFR part 262, the generator must include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; or

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; or

(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or

(4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; or

(5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or

(6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273.

* * * * *

(f) * * *

(3) A conditionally exempt small quantity generator may either treat or dispose of his acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a State to manage municipal or industrial solid waste;

(v) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(vi) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

* * * * *

(g) * * *

(3) A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a State to manage municipal or industrial solid waste;

(v) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(vi) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

* * * * *

7. Section 261.6 is amended by removing paragraph (a)(3)(ii) and redesignating paragraphs (a)(3)(iii) through (a)(3)(vii) as paragraphs (a)(3)(ii) through (a)(3)(vi).

8. Section 261.9 is added to subpart read as follows:

§ 261.9 Requirements for Universal Waste.

The wastes listed in this section are exempt from regulation under parts 262 through 270 of this chapter except as specified in part 273 of this chapter and, therefore are not fully regulated as hazardous waste. The wastes listed in this section are subject to regulation under 40 CFR part 273:

(a) Batteries as described in 40 CFR 273.2;

(b) Pesticides as described in 40 CFR 273.3; and

(c) Thermostats as described in 40 CFR 273.4.

PART 262-STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

9. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912(a), 6922, 6923, 6924, 6925, 6937 and 6938.

Subpart A-General

10. Section 262.10 is amended by redesignating existing paragraphs (b) through (f) as (c) through (g).

11. Section 262.10 is amended by adding a new paragraph (b) to read as follows:

§ 262.10 Purpose, scope and applicability.

* * * * *

(b) 40 CFR 261.5(c) and (d) must be used to determine the applicability of provisions of this part that are dependent on calculations of the quantity of hazardous waste generated per month.

* * * * *

12. Section 262.11 is amended by revising paragraph (d) to read as follows:

§ 262.11 Hazardous waste determination.

* * * * *

(d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

PART 264-STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

13. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart A-General

14. Section 264.1 is amended by adding a new paragraph (g)(11) as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(11) Universal waste handlers and universal waste transporters (as defined in 40 CFR 260.10) handling the wastes listed below. These handlers are subject to regulation under 40 CFR part 273, when handling the below listed universal wastes.

(i) Batteries as described in 40 CFR 273.2;

(ii) Pesticides as described in 40 CFR 273.3; and

(iii) Thermostats as described in 40 CFR 273.4.

* * * * *

PART 265-INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

15. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935 and 6936.

Subpart A-General

16. Section 265.1 is amended by adding a new paragraph (c)(14) to read as follows:

§ 265.1 Purpose, scope and applicability.

* * * * *

(c) * * *

(14) Universal waste handlers and universal waste transporters (as defined in 40 CFR 260.10) handling the wastes listed below. These handlers are subject to regulation under 40 CFR part 273, when handling the below listed universal wastes.

(i) Batteries as described in 40 CFR 273.2;

(ii) Pesticides as described in 40 CFR 273.3; and

(iii) Thermostats as described in 40 CFR 273.4.

* * * * *

PART 266-STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

17. The authority citation for part 266 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, and 3014 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6934).

Subpart G-Spent Lead Acid Batteries Being Reclaimed

18. Section 266.80 is amended by revising paragraphs (a) and (b) to read as follows:

§ 266.80 Applicability and requirements.

(a) The regulations of this subpart apply to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are not subject to regulation under parts 262 through 266 or part 270 or 124 of this chapter, and also are not subject to the requirements of section 3010 of RCRA.

(b) Owners or operators of facilities that store spent lead acid batteries before reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements.

* * * * *

PART 268-LAND DISPOSAL RESTRICTIONS

19. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A-General

20. Section 268.1 is amended by adding paragraph (f) to read as follows:

§ 268.1 Purpose, scope and applicability.

* * * * *

(f) Universal waste handlers and universal waste transporters (as defined in 40 CFR 260.10) are exempt from 40 CFR 268.7 and 268.50 for the hazardous wastes listed below. These handlers are subject to regulation under 40 CFR part 273.

- (1) Batteries as described in 40 CFR 273.2;
- (2) Pesticides as described in 40 CFR 273.3; and
- (3) Thermostats as described in 40 CFR 273.4.

PART 270-EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

21. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart A-General Information

22. Section 270.1 is amended by adding a new paragraph (c)(2)(viii) to read as follows:

§ 270.1 Purpose and scope of these regulations.

* * * * *

(c) * * *

(2) * * *

(viii) Universal waste handlers and universal waste transporters (as defined in 40 CFR 260.10) managing the wastes listed below. These handlers are subject to regulation under 40 part CFR 273.

(A) Batteries as described in 40 CFR 273.2;

(B) Pesticides as described in 40 CFR 273.3; and

(C) Thermostats as described in 40 CFR 273.4.

* * * * *

23. Title 40 of the Code of Federal Regulations is amended by adding part 273 to read as follows:

PART 273-STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

Subpart A-General

273.1 Scope.

273.2 Applicability-batteries.

273.3 Applicability-pesticides.

273.4 Applicability-thermostats.

273.5 Applicability-household and conditionally exempt small quantity generator waste.

273.6 Definitions.

Subpart B-Standards for Small Quantity Handlers of Universal Waste

273.10 Applicability.

273.11 Prohibitions.

273.12 Notification.

- 273.13 Waste management.
- 273.14 Labeling/marketing.
- 273.15 Accumulation time limits.
- 273.16 Employee training.
- 273.17 Response to releases.
- 273.18 Off-site shipments.
- 273.19 Tracking universal waste shipments.
- 273.20 Exports.

Subpart C-Standards for Large Quantity Handlers of Universal Waste

- 273.30 Applicability.
- 273.31 Prohibitions.
- 273.32 Notification.
- 273.33 Waste management.
- 273.34 Labeling/marketing.
- 273.35 Accumulation time limits.
- 273.36 Employee training.
- 273.37 Response to releases.
- 273.38 Off-site shipments.
- 273.39 Tracking universal waste shipments.
- 273.40 Exports.

Subpart D-Standards for Universal Waste Transporters

- 273.50 Applicability.
- 273.51 Prohibitions.
- 273.52 Waste management.
- 273.53 Accumulation time limits.
- 273.54 Response to releases.
- 273.55 Off-site shipments.
- 273.56 Exports.

Subpart E-Standards for Destination facilities

- 273.60 Applicability.
- 273.61 Off-site shipments.
- 273.62 Tracking universal waste shipments.

Subpart F-Import requirements

- 273.70 Imports.

Subpart G-Petitions to Include Other Wastes Under 40 CFR Part 273

- 273.80 General.
- 273.81 Factors for Petitions to Include Other Wastes under 40 CFR Part 273.

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

Subpart A-General

§ 273.1 Scope.

(a) This part establishes requirements for managing the following:

- (1) Batteries as described in 40 CFR 273.2;
- (2) Pesticides as described in 40 CFR 273.3; and
- (3) Thermostats as described in 40 CFR 273.4.

(b) This part provides an alternative set of management standards in lieu of regulation under 40 CFR parts 260 through 272.

§ 273.2 Applicability-batteries.

(a) Batteries covered under 40 CFR part 273. (1) The requirements of this part apply to persons managing batteries, as described in § 273.6, except those listed in paragraph (b) of this section.

(2) Spent lead-acid batteries which are not managed under 40 CFR part 266, subpart G, are subject to management under this part.

(b) Batteries not covered under 40 CFR part 273. The requirements of this part do not apply to persons managing the following batteries:

(1) Spent lead-acid batteries that are managed under 40 CFR part 266, subpart G.

(2) Batteries, as described in § 273.6, that are not yet wastes under part 261 of this chapter, including those that do not meet the criteria for waste generation in paragraph (c) of this section.

(3) Batteries, as described in § 273.6, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, subpart C.

(c) Generation of waste batteries. (1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

(2) An unused battery becomes a waste on the date the handler decides to discard it.

§ 273.3 Applicability-pesticides.

(a) Pesticides covered under 40 CFR part 273. The requirements of this part apply to persons managing pesticides, as described in § 273.6, meeting the following conditions, except those listed in paragraph (b) of this section:

(1) Recalled pesticides that are:

(i) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

(ii) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

(2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

(b) Pesticides not covered under 40 CFR part 273. The requirements of this part do not apply to persons managing the following pesticides:

(1) Recalled pesticides described in paragraph (a)(1) of this section, and unused pesticide products described in paragraph (a)(2) of this section, that are managed by farmers in compliance with 40 CFR 262.70. (40 CFR 262.70 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 40 CFR 261.7(b)(3));

(2) Pesticides not meeting the conditions set forth in paragraph (a) of this section. These pesticides must be managed in compliance with the hazardous waste regulations in 40 CFR parts 260 through 272;

(3) Pesticides that are not wastes under part 261 of this chapter, including those that do not meet the criteria for waste generation in paragraph (c) of this section or those that are not wastes as described in paragraph (d) of this section; and

(4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in 40 CFR part 261, subpart D

or if it exhibits one or more of the characteristics identified in 40 CFR part 261, subpart C.

(c) When a pesticide becomes a waste. (1) A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

(i) The generator of the recalled pesticide agrees to participate in the recall; and

(ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

(2) An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

(d) Pesticides that are not wastes. The following pesticides are not wastes:

(1) Recalled pesticides described in paragraph (a)(1) of this section, provided that the person conducting the recall:

(i) Has not made a decision to discard (e.g., burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 40 CFR 261.2; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this part 273. This pesticide remains subject to the requirements of FIFRA; or

(ii) Has made a decision to use a management option that, under 40 CFR 261.2, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this part 273. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

(2) Unused pesticide products described in paragraph (a)(2) of this section, if the generator of the unused pesticide product has not decided to discard (e.g., burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

§ 273.4 Applicability-mercury thermostats.

(a) Thermostats covered under 40 CFR part 273. The requirements of this part apply to persons managing thermostats, as described in § 273.6, except those listed in paragraph (b) of this section.

(b) Thermostats not covered under 40 CFR part 273. The requirements of this part do not apply to persons managing the following thermostats:

(1) Thermostats that are not yet wastes under part 261 of this chapter. Paragraph (c) of this section describes when thermostats become wastes.

(2) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, subpart C.

(c) Generation of waste thermostats. (1) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).

(2) An unused thermostat becomes a waste on the date the handler decides to discard it.

§ 273.5 Applicability-household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this part:

(1) Household wastes that are exempt under 40 CFR 261.4(b)(1) and are also of the same type as the universal wastes defined at 40 CFR 273.6; and/or

(2) Conditionally exempt small quantity generator wastes that are exempt under 40 CFR 261.5 and are also of the same type as the universal wastes defined at 40 CFR 273.6.

(b) Persons who commingle the wastes described in paragraphs (a)(1) and (a)(2) of this section together with universal waste regulated under this part must manage the commingled waste under the requirements of this part.

§ 273.6 Definitions.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as

may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in § 273.13 (a) and (c) and § 273.33 (a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

"Large Quantity Handler of Universal Waste" means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(a) Is a new animal drug under FFDCA section 201(w), or

(b) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(c) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (a) or (b) of this section.

"Small Quantity Handler of Universal Waste" means a universal waste handler (as defined in this section) who does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 40 CFR 273.13(c)(2) or 273.33(c)(2).

"Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of 40 CFR part 273:

(a) Batteries as described in 40 CFR 273.2;

(b) Pesticides as described in 40 CFR 273.3; and

(c) Thermostats as described in 40 CFR 273.4.

"Universal Waste Handler":

(a) Means:

(1) A generator (as defined in this section) of universal waste; or

(2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(b) Does not mean:

(1) A person who treats (except under the provisions of 40 CFR 273.13 (a) or (c), or 273.33 (a) or (c)), disposes of, or recycles universal waste; or

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

"Universal Waste Transfer Facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Subpart B-Standards for Small Quantity Handlers of Universal Waste

§ 273.10 Applicability.

This subpart applies to small quantity handlers of universal waste (as defined in 40 CFR 273.6).

§ 273.11 Prohibitions.

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in 40 CFR 273.17; or by managing specific wastes as provided in 40 CFR 273.13.

§ 273.12 Notification.

A small quantity handler of universal waste is not required to notify EPA of universal waste handling activities.

§ 273.13 Waste management.

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

(1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual

battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to 40 CFR part 262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevent releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this Section; or

(3) A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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

(1) A small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR 262.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(3)(i) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks; and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).

(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it is subject to 40 CFR part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

§ 273.14 Labeling/marketing.

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies), or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste

pesticides as described in 40 CFR 273.3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in 40 CFR 273.3(a)(2) are contained must be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in paragraphs (c)(1) (i) and (ii) of this section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)".

§ 273.15 Accumulation time limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is

solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

§ 273.16 Employee training.

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

§ 273.17 Response to releases.

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is

hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with 40 CFR part 262.

§ 273.18 Off-site shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subpart D of this part while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

- (1) Send the shipment back to the originating handler, or
- (2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the appropriate regional EPA office of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The EPA regional office will provide instructions for managing the hazardous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

§ 273.19 Tracking universal waste shipments.

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

§ 273.20 Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of part 262 of this chapter; and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

Subpart C-Standards for Large Quantity Handlers of Universal Waste

§ 273.30 Applicability.

This subpart applies to large quantity handlers of universal waste (as defined in 40 CFR 273.6).

§ 273.31 Prohibitions.

A large quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in 40 CFR 273.37; or by managing specific wastes as provided in 40 CFR 273.33.

§ 273.32 Notification.

(a)(1) Except as provided in paragraphs (a) (2) and (3) of this section, a large quantity handler of universal waste must have sent written notification of universal waste management to the Regional Administrator, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

(2) A large quantity handler of universal waste who has already notified EPA of his hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

(b) This notification must include:

(1) The universal waste handler's name and mailing address;

(2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(3) The address or physical location of the universal waste management activities;

(4) A list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats);

(5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats) the handler is accumulating above this quantity.

§ 273.33 Waste management.

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

(1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to 40 CFR part 262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of paragraph (b)(1) of this section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (b)(1) of this section; or

(3) A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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

(1) A large quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR 262.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(3)(i) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks; and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).

(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to 40 CFR part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that

is in compliance with applicable federal, state or local solid waste regulations.

§ 273.34 Labeling/marketing.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) are contained must be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in 40 CFR 273.3(a)(2) are contained must be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in paragraph (c)(1)(i) of this section is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in paragraphs (c) (1)(i) and (1)(ii) of this section is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d) Universal waste thermostats (i.e., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

§ 273.35 Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

(3) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

(4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

§ 273.36 Employee training.

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

§ 273.37 Response to releases.

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the material resulting from the release, and is subject to 40 CFR part 262.

§ 273.38 Off-site shipments.

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subpart D of this part while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(1) Receive the waste back when notified that the shipment has been rejected, or

(2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(1) Send the shipment back to the originating handler, or

(2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the appropriate regional EPA office of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The EPA regional office will provide instructions for managing the hazardous waste.

(h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

§ 273.39 Tracking universal waste shipments.

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats);

(3) The date of receipt of the shipment of universal waste.

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats);

(3) The date the shipment of universal waste left the facility.

(c) Record retention. (1) A large quantity handler of universal waste must retain the records described in paragraph (a) of this section for at least three years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste must retain the records described in paragraph (b) of this section for at least three years from the date a shipment of universal waste left the facility.

§ 273.40 Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57;

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in subpart E of part 262 of this chapter; and

(c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

Subpart D-Standards for Universal Waste Transporters

§ 273.50 Applicability.

This subpart applies to universal waste transporters (as defined in 40 CFR 273.6).

§ 273.51 Prohibitions.

A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in 40 CFR 273.54.

§ 273.52 Waste management.

(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR part 262. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under 40 CFR 262, they may not be described by the DOT proper shipping name "hazardous waste, (1) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".

§ 273.53 Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of subparts B or C of this part while storing the universal waste.

§ 273.54 Response to releases.

(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of 40 CFR parts 260 through 272. If the waste is determined to be a hazardous waste, the transporter is subject to 40 CFR part 262.

§ 273.55 Off-site shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off-site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR part 172.

§ 273.56 Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

Subpart E-Standards for Destination Facilities

§ 273.60 Applicability.

(a) The owner or operator of a destination facility (as defined in 40 CFR 273.6) is subject to all applicable requirements of parts 264, 265, 266, 268, 270, and 124 of this chapter, and the notification requirement under section 3010 of RCRA:

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that

universal waste before it is recycled must comply with 40 CFR 261.6(c)(2).

§ 273.61 Off-site shipments.

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(1) Send the shipment back to the original shipper, or

(2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the a owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the appropriate regional EPA office of the illegal shipment, and provide the name, address, and phone number of the shipper. The EPA regional office will provide instructions for managing the hazardous waste.

(d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

§ 273.62 Tracking universal waste shipments.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats);

(3) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in paragraph (a) of this section for at least three years from the date of receipt of a shipment of universal waste.

Subpart F-Import Requirements

§ 273.70 Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this part, immediately after the waste enters the United States, as indicated below:

(a) A universal waste transporter is subject to the universal waste transporter requirements of subpart D of this part.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subparts B or C, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of subpart E of this part.

Subpart G-Petitions to Include Other Wastes Under 40 CFR Part 273

§ 273.80 General.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to this part may petition for a regulatory amendment under this subpart and 40 CFR 260.20 and 260.23.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR part 273 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by 40 CFR 260.20(b). The petition should also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

(c) The Administrator will evaluate petitions using the factors listed in 40 CFR 273.81. The Administrator will grant or deny a petition using the factors listed in 40 CFR 273.81. The decision will be based on the weight of evidence showing that regulation under 40 CFR part 273 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

§ 273.81 Factors for petitions to include other wastes under 40 CFR part 273.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in subpart D of part 261 of this chapter, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in subpart C of part 261 of this chapter. (When a characteristic waste is added to the universal waste regulations of 40 CFR part 273 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 40 CFR 260.10 and 273.6 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of 40 CFR part 273;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to 40 CFR 273.13, 273.33, and 273.52; and/or applicable Department of Transportation requirements)

would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under 40 CFR part 273 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA.

(g) Regulation of the waste or category of waste under 40 CFR part 273 will improve implementation of and compliance with the hazardous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

[FR Doc. 95-11143 Filed 5-10-95; 8:45 am]
BILLING CODE 6560-50-P