

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		This space for use by IRRC  50 AUG 17 PM 3:52  IRRC Number: # 2059	
(1) Agency  Environmental Protection			
(2) I.D. Number (Governor's Office Use)  #7 - 347			
(3) Short Title  Universal Waste Rule - Addition of Wastes			
(4) PA Code Cite 25 PA Code Chapters 261, 264, 265 & 266		(5) Agency Contacts & Telephone Numbers  Primary Contact: Sharon Freeman, 783-1303  Secondary Contact: Barbara Sexton, 783-1303	
(6) Type of Rulemaking (Check One)  <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  The proposed regulation amends the existing hazardous waste regulations by adding two additional wastes to the list of hazardous wastes that may be managed as universal wastes.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  Section 105 of the Solid Waste Management Act (35 P.S.6018.105); section 5 of The Clean Streams Law (35 P.S. §691.105); and section 1920-A of The Administrative Code of 1929 (71 P.S. §510-20).			

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated under any state or federal law or court order, or federal regulation. It is permitted under federal regulation at 40 CFR Part 273.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed regulation will allow additional waste to be managed as universal waste. Management as universal allows for streamlined environmentally protective management of the wastes. Universal waste standards reduce the actual costs associated with the recycling of the wastes and will promote recycling of the wastes.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Under the present method of regulating these wastes (full Subtitle C) a substantial amount of them are illegally disposed of in the municipal waste stream. The regulated community considers these wastes to be relatively innocuous and often ignores the fact that they contain mercury. They are often mismanaged prior to disposal and then disposed of illegally in a municipal waste landfill or incinerator, where they can impact human health and safety and pollute the environment.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The citizens and the environment of the Commonwealth will benefit from this regulation. By reducing the overall management costs associated with the wastes, recycling of the waste will be encouraged, and unlawful disposal in the municipal waste stream will be reduced.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

The proposed amendments are not expected to produce any adverse impacts on the regulated community. Managing the wastes as universal wastes will be an option to the regulated community that will reduce the management costs for these wastes. They can always choose to manage the wastes under full Subtitle C hazardous waste regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The approximately 26,000 generators, small quantity generators and conditionally exempt small quantity generators who operate in Pennsylvania will have the option to comply with the regulation. Compliance, however, will be beneficial because the regulation will reduce the cost to comply.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Solid Waste Advisory Committee was involved in the development of the regulation. The regulation resulted from the Environmental Quality Board being petitioned to include these wastes as universal wastes in Pennsylvania. The petitions were published in the Pennsylvania Bulletin along with a request for comments on the petitions. One comment was received in support of the petition for mercury-containing devices.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

These amendments are not expected to impose any additional costs on the regulated community. The regulated community as a whole could see a 30% reduction in the transportation costs of these wastes. In addition to the transportation costs, reduced manifest completion related costs and mailing costs totaling approximately \$33,000 could result.

### Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments will not be affected by these regulations.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

There will be no additional costs to state government as a result of these amendments. There is the potential for the state to save approximately 1/3 of a FTE staff person (\$10,000) through a reduction in the number of manifests received for these wastes. This number is currently estimated at 5,000 manifests per year. Each of these manifests must be scanned and data entered into the Department of Environmental Protection's database for manifests.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	3,000	33,000	33,000	33,000	33,000	33,000
<b>Local Government</b>	N/A	-	-	-	-	-
<b>State Government</b>	1,000	10,000	10,000	10,000	10,000	10,000
<b>Total Savings</b>	4,000	43,000	43,000	43,000	43,000	43,000
<b>COSTS:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	N/A	-	-	-	-	-
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	0	0	0	0	0	0
<b>Local Government</b>	N/A	-	-	-	-	-
<b>State Government</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

Savings to the regulated community result from mailing the proper copies of 5,000 manifests to their respective locations account for \$3,000 of the savings (5,000 x 2 copies x \$0.32 per copy mailed).

Savings to the regulated community also result from not having to complete 5,000 manifests at an estimated time of 20 minutes per manifest. This results in an estimated savings of 1 full time person on a statewide basis per year. (Estimated total cost of \$30,000 per year in salary and benefits)

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Hazardous Waste	\$6,228,769	\$6,666,697	\$6,392,000	\$6,052,587

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No additional costs should result from these regulation changes. The regulated community may experience some cost savings as outline above. The principal benefit, however, will result from the increased recycling of mercury.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered. The wastes in question are hazardous wastes and must be regulated in accordance with federal regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The wastes in the proposed rule are already managed under full hazardous waste regulation. No other alternative regulatory schemes were considered.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The proposed regulations are less stringent than federal standards. This is one of the few areas in the federal regulations that allows a state to be less stringent.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation will make Pennsylvania equivalent to those states that have already allowed mercury-containing lamps and mercury-containing devices to be managed as universal wastes and less stringent than those states that have not.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulations being amended are 25 PA Code Chapters 261, 264, 265 and 266 which pertain to hazardous waste management. Regulations of other state agencies will not be affected.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informal meetings are scheduled.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The change will not affect existing reporting requirements. Record keeping and other paperwork requirements will be reduced because manifests are not required for universal waste shipments.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Due to the nature and purpose of the proposed changes, no special provisions are needed.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulations will go into effect upon publication in the Pennsylvania Bulletin as final rulemaking. No new licenses, permits or other approvals will be required by these regulations.

(31) Provide the schedule for continual review of the regulation.

The regulations will be revised in accordance with the sunset review schedule published by the Department.



7/21/99

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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#2059

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><i>Christopher J. Conity</i> (DEPUTY ATTORNEY GENERAL)</p> <p>AUG 03 1999 DATE OF APPROVAL</p> <p>Check if applicable Copy not approved. Objections Noted.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF ENVIRONMENTAL PROTECTION ENVIRONMENTAL QUALITY BOARD</p> <p>(AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 7-347</p> <p>DATE OF ADOPTION:</p> <p>BY: <i>James M. Seif</i></p> <p>TITLE: JAMES M. SEIF, CHAIRMAN (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p><i>R. E. Grimaldi</i></p> <p>7/21/99 DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF  
PROPOSED RULEMAKING  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

UNIVERSAL WASTE RULE - ADDITION OF WASTES  
25 PA CODE CHAPTERS 261, 264, 265 & 266

Notice of Proposed Rulemaking  
Department of Environmental Protection  
Environmental Quality Board  
(25 Pa. Code Chapters 261, 264, 265 and 266)  
(Hazardous Waste Management)

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapters 261 (relating to Criteria, Identification and Listing of Hazardous Waste), 264 (relating to New and Existing Hazardous Waste Management Facilities Applying for a Permit), 265 (relating to Interim Status Standards for Hazardous Waste Management Facilities and Permit Program for New and Existing Hazardous Waste Management Facilities) and 266 (relating to Special Standards for the Management of Certain Hazardous Waste Activities) to add mercury containing-lamps and mercury-containing devices to the list of hazardous wastes that will be regulated as universal wastes. These amendments are set forth in Annex A.

This proposal was adopted by the Board at its meeting of July 20, 1999.

**A. Effective Date**

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**B. Contact Persons**

For further information contact Rick Shipman, Division of Hazardous Waste, P.O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-6239, or Leigh B. Cohen, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.dep.state.pa.us>).

**C. Statutory Authority**

The proposed rulemaking is being made under the authority of sections 105, 401-403 and 501 of the Solid Waste Management Act (SWMA), (35 P.S. §§ 6018.105, 6018.401-6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P.S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-20). Under sections 105, 401-403 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the

public's health, safety and welfare, and the environment of this Commonwealth. Sections 105, 402 and 501 of The Clean Streams Law grant the Board the authority to adopt regulations that are necessary to protect the waters of this Commonwealth from pollution. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

#### **D. Background and Purpose**

The Universal Waste Rule is a set of environmentally protective, simplified standards for the management of certain hazardous wastes identified as universal wastes. The Universal Waste Rule is intended to encourage the recycling of certain classes of hazardous wastes while ensuring that the environment and the public's health, safety and welfare are adequately protected. Universal wastes share the following common characteristics:

- a. They are frequently generated in a variety of settings including those industrial settings usually associated with hazardous wastes.
- b. They are generated by a vast community, the size of which poses implementation difficulties for both those who are regulated and the regulatory agencies charged with implementing the hazardous waste program.
- c. They may be present in significant volumes in nonhazardous waste management systems.

Currently, Pennsylvania's hazardous waste regulations recognize three classes of hazardous waste that may be managed under the Universal Waste Rule. The recognized classes of hazardous wastes that may be managed as universal wastes are certain batteries, certain pesticides and thermostats. Title 25, Pa. Code, Chapter 266, Subchapter P sets forth a petition process through which additional classes of hazardous waste can be added to the list of hazardous wastes that may be managed as universal wastes.

On August 22, 1997, Advanced Environmental Recycling Corporation submitted two petitions to the Board. The petitions sought to add mercury-containing devices where the mercury is contained in an ampoule and mercury-containing lamps to the list of hazardous wastes that may be managed in accordance with the universal waste rule standards. The Department published notice of its receipt of the petitions in the *Pennsylvania Bulletin* on October 11, 1997, with a 60-day public comment period. The Board accepted the petitions for study on October 21, 1997. The Solid Waste Advisory Committee (SWAC) reviewed the petitions on November 12, 1997. During the public comment period, there were no comments received with respect to the petition to add mercury-containing lamps. The Board received one comment in support of the petition to include mercury-containing devices.

In response to the petitions, the Department conducted a pilot project to allow mercury-containing lamps to be managed in accordance with the universal waste rule. During this two-year project, the Department has found no evidence of resulting environmental or health problems. In addition to the pilot project, the Department, with the aid of the Northeast Environmental Enforcement Project, surveyed all other states and the District of Columbia to determine which wastes each state manages as universal wastes. Survey results indicate that 22 states include mercury-containing lamps and five states include mercury-containing devices in their lists of universal wastes. There were no reported increases in hazardous waste management problems as a result of including either of these wastes in their lists of hazardous wastes managed as universal wastes. The Board has therefore concluded that allowing operators to manage mercury-containing lamps and mercury-containing devices in accordance with the universal waste standards will encourage recycling of both wastes without the potential for increased environmental or public health and safety concerns. Accordingly, the proposed rulemaking adds mercury-containing lamps and mercury-containing devices to the list of hazardous wastes that may be managed as universal wastes. While the intentional breaking or crushing of mercury-containing lamps by generators is not authorized, incidental breakage of lamps during lamp removal from fixtures or while being transported to a destination facility will not disqualify the lamps from regulation under the universal waste rule. This proposed regulation was reviewed and approved by SWAC on March 11, 1999.

#### **E. Summary of Regulatory Requirements**

##### *25 Pa. Code §261.9 Requirements for universal waste.*

The Board is proposing to add to the list of wastes subject to regulation under Chapter 266, Subchapters G-P, mercury-containing devices and mercury-containing lamps. The proposed regulation replaces “thermostats” with “mercury-containing devices,” a broader term that includes thermostats.

##### *25 Pa. Code §§264.1 and 265.1*

The Board is proposing to add mercury-containing devices and mercury-containing lamps to the list of hazardous wastes that may be managed in accordance with the universal waste standards found in Chapter 266.

##### *25 Pa. Code §266.201*

This section is proposed to be modified to clarify that the scope of the universal waste standards contained in Chapter 266 includes mercury-containing devices and mercury-containing lamps.

*25 Pa. Code §266.204 Applicability to mercury-containing devices*

The Board is proposing to modify this section to indicate that, unless listed in §266.204(b), all mercury-containing devices, including thermostats, may be managed in accordance with the universal waste standards.

*25 Pa. Code §266.205 Applicability to mercury-containing lamps*

The Board is proposing to add a new provision, §266.205, to indicate that, unless listed in §266.205(b), mercury-containing lamps may be managed in accordance with the universal waste standards.

*25 Pa. Code §266.207 Definitions*

The Board is proposing to modify the definitions section of the universal waste rule to include the terms “mercury-containing lamp” and “mercury-containing device.” In addition, the definition of “universal waste” is being modified to include mercury-containing devices and mercury-containing lamps.

*25 Pa. Code §266.213 Waste Management*

The Board is proposing to amend §266.213(c) to replace the term “thermostats” with “mercury-containing devices”. This change broadens the class of hazardous wastes that may be managed as universal wastes from only thermostats to all mercury-containing devices.

The Board is proposing to add a new §266.213(d) to require small quantity handlers of mercury containing lamps to manage the lamps to prevent breakage and releases of waste to the environment. The provision requires small quantity handlers to store the mercury-containing lamps in a manner that minimizes breakage and requires the small quantity handler to immediately clean up any broken lamps and place them in a closed, structurally sound container.

*25 Pa. Code §266.214 Labeling/Marking*

The Board is proposing to amend §§266.214(4) and to add a new (5) to include requirements for labeling and marking containers that hold universal waste mercury-containing devices and mercury-containing lamps.

*25 Pa. Code §266.232 Notification*

The Board is proposing to modify §266.232 to replace the term “thermostats” with the term “mercury-containing devices”.

*25 Pa. Code §266.233 Waste Management*

The Board is proposing to replace the term “thermostats” with the term “mercury-containing devices” in §266.233(c). In addition, the Board is proposing to add §266.233(d) to require large quantity handlers of universal waste mercury-containing lamps to manage them in a manner that prevents breakage and releases of waste to the environment. The proposed provision requires large quantity handlers to store universal waste mercury-containing lamps in a manner that minimizes breakage and to immediately clean up any broken mercury-containing lamps and to place any broken mercury-containing lamps in a closed, structurally sound container.

*25 Pa. Code §266.234 Labeling/Marking*

The Board is proposing to replace the term “thermostats” with the term “mercury-containing devices.” In addition, the Board is proposing to add a new provision that requires the proper marking and labeling of containers that hold mercury-containing lamps.

*25 Pa. Code §§266.239 and 266.262 (relating to tracking universal waste shipments)*

The Board is proposing to replace the term “thermostats” with the term “mercury-containing devices.”

**F. Benefits, Costs and Compliance**

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

**Benefits**

Incorporating mercury-containing lamps and mercury-containing devices as universal wastes will prevent pollution by facilitating the recycling or proper disposal of these wastes. Currently, these wastes are frequently illegally disposed of. Universal waste management requires the use of environmentally protective streamlined standards for the collection and transportation of these wastes. By making these management standards less complex and less costly to comply with, the recycling or proper disposal of these wastes is facilitated.

It is difficult to place a dollar value on the amount of savings incurred by generators who recycle mercury-containing lamps and devices. The volume of these wastes currently generated in Pennsylvania is unknown. Transportation costs associated with the shipment of these wastes to a permitted recycling facility will be reduced by eliminating the need for a licensed hazardous waste transporter. It is estimated that

shipment of hazardous waste by a licensed hazardous waste transporter currently costs about 1.3 times the cost of sending a shipment by a common carrier. Costs associated with paperwork would also be reduced. Manifests and the mailing costs associated with the proper distribution of the copies would not be required. A bill of lading would suffice.

What is perhaps more important than the cost savings involved is the potential decrease in unlawful disposal of these materials in the nonhazardous waste stream. Reducing the costs associated with the consolidation and transportation of these wastes will promote the proper recycling of these wastes.

### **Compliance Costs**

Compliance costs associated with universal waste standards are less than the compliance costs associated with full hazardous waste regulation. Shipping costs will be reduced through the use of a common carrier instead of a licensed hazardous waste transporter. Paperwork costs will also be reduced through the use of a bill of lading rather than a hazardous waste manifest. The manifest requires that copies of the manifest be mailed to various entities (generator, regulatory agency, etc.) while a bill of lading requires no such distribution.

### **Compliance Assistance Plan**

As with the original Universal Waste Rule, the Department's compliance assistance efforts will take three forms. The Department will prepare fact sheets specifically addressing mercury-containing lamps and mercury-containing devices. The Department will also continue to work with the regulated community to explain how individuals, corporations or associations can establish collection systems for lamps and mercury-containing devices. Information concerning universal waste and the latest additions to this category will also be available on the Department's Internet site.

### **Paperwork Requirements**

The addition of mercury-containing lamps and devices will reduce paperwork requirements. Destination facilities will have to maintain normal shipping documents that are used to track shipments as part of everyday operations. Manifests, which generally consist of more copies than bills of lading, and which require more extensive distribution, will no longer be required.

### **G. Pollution Prevention**

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving State environmental protection goals. Pollution prevention is the reduction or elimination of pollution at its source. The Department encourages pollution prevention through the substitution of

environmentally friendly materials, the more efficient use of raw materials, or the incorporation of energy efficient strategies. Pollution prevention provisions are not applicable with these regulations because these regulations will allow these wastes to be managed under a set of streamlined standards that are intended to promote the recycling of these wastes.

#### **H. Sunset Review**

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

#### **I. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§745.1-745.15), the Department submitted a copy of the Proposed Rulemaking on August 17, 1999, to the Independent Regulatory Review Commission, and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed regulations, the Department has provided the Commission and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulations, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulation.

#### **J. Public Comments**

**Written Comments** - Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17105-2301). Comments received by facsimile will not be accepted. Comments, suggestions or objections must be received by October 27, 1999. Interested persons may also submit a summary of their comments to the Board. The summary shall not exceed one page in length and must also be received by October 27, 1999. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulations will be considered.

**Electronic Comments** - Comments may be submitted electronically to the Board at RegComments@dep.state.pa.us. A subject heading of the proposal must be included in



each transmission. Comments submitted electronically must also be received by the Board by October 27, 1999.

JAMES M. SEIF  
Chairman  
Environmental Quality Board

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND  
SAFETY

ARTICLE VII. HAZARDOUS WASTE  
MANAGEMENT

CHAPTER 261. CRITERIA, IDENTIFICATION AND  
LISTING OF HAZARDOUS WASTE

\* \* \* \* \*

**§ 261.9. Requirements for universal waste.**

The wastes listed in this section are exempt from regulation under Chapters 262 – 270 except as specified in Chapter 277 (relating to special standards for the management of certain hazardous waste activities and universal waste management) and, therefore are not fully regulated as hazardous waste. The wastes listed in this section are subject to regulation under Chapter 266:

- (1) Batteries as described in § 266.202 (relating to applicability – batteries).
- (2) Pesticides as described in § 266.203 (relating to applicability – pesticides).
- (3) [Thermostats] MERCURY-CONTAINING DEVICES as described in § 266.204 (relating to applicability – [thermostats] MERCURY-CONTAINING DEVICES).

(4) MERCURY-CONTAINING LAMPS AS DESCRIBED IN § 266.205 (RELATING TO APPLICABILITY - MERCURY-CONTAINING LAMPS).

[(4)] (5) Other hazardous wastes or categories of hazardous waste determined by the EPA to be universal wastes regulated under 40 CFR Part 273 (relating to standards for management of universal wastes).

## CHAPTER 264. NEW AND EXISTING HAZARDOUS WASTE MANAGEMENT FACILITIES APPLYING FOR A PERMIT

### Subchapter A. General

#### § 264.1. Scope

\* \* \* \* \*

(c ) The requirements of this chapter do not apply to the following:

\* \* \* \* \*

(10) Universal waste handlers and universal waste transporters as defined in § 266.208 (relating to definitions) handling the wastes listed in this paragraph. These persons are subject to regulation under Chapter 266 (relating to special standards for the management of certain hazardous waste activities and universal waste management) when managing the following listed universal wastes:

- (i) Batteries as described in § 266.202 (relating to applicability-batteries).
- (ii) Pesticides as described in § 266.203 (relating to applicability- pesticides).
- (iii) [Thermostats] MERCURY-CONTAINING DEVICES as described in § 266.204 (relating to applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES).
- (iv) MERCURY CONTAINING LAMPS AS DESCRIBED IN § 266.205 (RELATING TO APPLICABILITY-MERCURY-CONTAINING LAMPS).

[(iv)] (v) Other hazardous wastes or categories of hazardous waste determined by the EPA to be universal wastes regulated under 40 CFR Part 273 (relating to standards for management of universal wastes).

\* \* \* \* \*

**CHAPTER 265. INTERIM STATUS STANDARDS**  
**FOR HAZARDOUS WASTE MANAGEMENT**  
**FACILITIES AND PERMIT PROGRAM FOR NEW**  
**AND EXISTING HAZARDOUS WASTE**  
**MANAGEMENT FACILITIES**

**Subchapter A. GENERAL**

**§ 265.1. Scope.**

(c ) This section does not apply to the following:

\* \* \* \* \*

(11) Universal waste handlers and universal waste transporters as defined in § 266.20[6]7 (relating to definitions) handling the wastes listed in this paragraph. These persons are subject to regulation under Chapter 266 (relating to special standards for the management of certain hazardous waste activities and universal waste management) when managing the following listed universal wastes:

- (i) Batteries as described in § 266.202 (relating to applicability-batteries).
- (ii) Pesticides as described in § 266.203 (relating to applicability- pesticides).
- (iii) [Thermostats] MERCURY-CONTAINING DEVICES as described in § 266.204 (relating to applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES).
- (iv) MERCURY-CONTAINING LAMPS AS DESCRIBED IN § 266.205 (RELATING TO APPLICABILITY-MERCURY-CONTAINING LAMPS).

[(iv)] (v) Other hazardous wastes or categories of hazardous waste determined by the EPA to be universal wastes regulated under 40 CFR Part 273 (relating to standards for management of universal wastes).

**CHAPTER 266. SPECIAL STANDARDS FOR THE  
MANAGEMENT OF CERTAIN HAZARDOUS WASTE  
ACTIVITIES AND UNIVERSAL WASTE MANAGEMENT**

\* \* \* \* \*

**Subchapter J. GENERAL**

Sec.

- 266.201. Scope
- 266.202. Applicability-batteries.
- 266.203. Applicability-pesticides.
- 266.204. Applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES.
- 266.205 APPLICABILITY-MERCURY-CONTAINING LAMPS.
- 266.206 Applicability-household and conditionally exempt small quantity generator waste.
- 266.207 Definitions.

**§ 266.201. Scope.**

(a) This subchapter and Subchapters K-P establish requirements for managing the following:

(1) Batteries as described in § 266.202 (relating to applicability-batteries).

(2) Pesticides as described in § 266.203 (relating to applicability-pesticides).

(3) [Thermostats] MERCURY-CONTAINING DEVICES as described in § 266.204 (relating to applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES).

(4) MERCURY-CONTAINING LAMPS AS DESCRIBED IN §266.205 (RELATING TO APPLICABILITY - MERCURY-CONTAINING LAMPS).

[(4)] (5) Other hazardous wastes or categories of hazardous wastes determined by the EPA to be universal wastes regulated under 40 CFR Part 273 (relating to standards for management of universal wastes).

\* \* \* \* \*

**§ 266.204. Applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES.**

(a) This subchapter and Subchapters K-P apply to persons managing [thermostats] MERCURY-CONTAINING DEVICES, as described in [§ 266.206] § 266.207 (relating to definitions), except those listed in subsection (b).

(b) The requirements of this chapter do not apply to persons managing the following [thermostats] MERCURY-CONTAINING DEVICES:

(1) [Thermostats] MERCURY-CONTAINING DEVICES that are not yet wastes under 40 CFR 261.2 (relating to definition of solid waste).

(2) [Thermostats] MERCURY-CONTAINING DEVICES that are not hazardous waste. A [thermostat] MERCURY-

CONTAINING DEVICE is a hazardous waste if it exhibits one or more of the characteristics identified in Subchapter C (relating to characteristics of hazardous waste).

(c) Generation of waste [thermostats] MERCURY-CONTAINING DEVICES is as follows:

(1) A used [thermostat] MERCURY-CONTAINING DEVICE becomes a waste on the date it is discarded (for example, sent for reclamation).

(2) An unused [thermostat] MERCURY-CONTAINING DEVICE becomes a waste on the date the handler decides to discard it.

#### § 266.205. APPLICABILITY - MERCURY-CONTAINING LAMPS.

(a) THIS SUBCHAPTER AND SUBCHAPTERS K - P APPLY TO PERSONS MANAGING MERCURY-CONTAINING LAMPS, AS DESCRIBED IN 266.207 (RELATING TO DEFINITIONS), EXCEPT THOSE LISTED IN SUBSECTION (b).

(b) THE REQUIREMENTS OF THIS CHAPTER DO NOT APPLY TO THE FOLLOWING MERCURY-CONTAINING LAMPS:

(1) LAMPS THAT ARE NOT INTACT.

(2) LAMPS THAT ARE NOT YET WASTES UNDER 40 CFR 261.2 (RELATING TO DEFINITION OF SOLID WASTE).

(3) LAMPS THAT ARE NOT A HAZARDOUS WASTE. A MERCURY-CONTAINING LAMP IS A HAZARDOUS WASTE IF IT EXHIBITS ONE OR MORE OF THE CHARACTERISTICS IDENTIFIED IN SUBCHAPTER C (RELATING TO CHARACTERISTICS OF HAZARDOUS WASTE).

(c ) GENERATION OF WASTE MERCURY-CONTAINING LAMPS IS AS FOLLOWS:

(1) A USED MERCURY-CONTAINING LAMP BECOMES A WASTE ON THE DATE IT IS DISCARDED (FOR EXAMPLE, SENT FOR RECLAMATION).

(2) AN UNUSED MERCURY-CONTAINING LAMP BECOMES A WASTE ON THE DATE THE HANDLER DECIDES TO DISCARD IT.

[§ 266.205.] §266.206 Applicability—household and conditionally exempt small quantity generator waste.

\* \* \* \* \*

[§ 266.206] §266.207. Definitions.

The following words and terms, when used in this subchapter and Subchapters K–O, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

MERCURY-CONTAINING DEVICE – ANY PRODUCT, OR COMPONENT OF A PRODUCT (EXCLUDING BATTERIES AND MERCURY-CONTAINING LAMPS) WHICH CONTAINS ELEMENTAL MERCURY THAT IS NECESSARY FOR OPERATION OF THE DEVICE.

MERCURY-CONTAINING LAMP – THE BULB OR TUBE PORTION OF AN ELECTRIC DEVICE SPECIFICALLY DESIGNED TO PRODUCE LIGHT. SUCH DEVICES INCLUDE, BUT ARE NOT LIMITED TO



INCANDESCENT, FLUORESCENT, HIGH INTENSITY DISCHARGE, AND NEON LAMPS IN WHICH  
MERCURY IS PURPOSELY INTRODUCED BY THE MANUFACTURER FOR THE OPERATION OF THE  
LAMP.

\* \* \* \* \*

[*Thermostat*—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 § 266.213(c)(2) or § 266.233(c)(2) (relating to waste management)].

*Universal waste*—Any of the following hazardous wastes that are subject to the universal waste requirements of this subchapter and Subchapters K–P:

(i) Batteries as described in § 266.202 (relating to applicability-batteries).

(ii) Pesticides as described in § 266.203 (relating to applicability-pesticides).

(iii) [Thermostats] MERCURY-CONTAINING DEVICES as described in § 266.204 (relating to applicability-[mercury thermostats] MERCURY-CONTAINING DEVICES).

(iv) MERCURY-CONTAINING LAMPS AS DESCRIBED IN §266.205 (RELATING TO APPLICABILITY-MERCURY-CONTAINING LAMPS)

(v) Other hazardous wastes or categories of hazardous wastes determined to be a universal waste by EPA under 40 CFR Part 273 (relating to standards for universal waste management).

\* \* \* \* \*

§ 266.213. Waste management.

\* \* \* \* \*

(c) *Universal waste* [thermostats] MERCURY-CONTAINING DEVICES. A small quantity handler of universal waste shall manage universal waste [thermostats] MERCURY-CONTAINING DEVICES 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 shall contain any universal waste [thermostat] MERCURY-CONTAINING DEVICE that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the [thermostat] MERCURY-CONTAINING DEVICE and 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] MERCURY-CONTAINING DEVICES if 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 (for example, a tray or pan sufficient to collect and contain mercury released from an ampule in case of breakage).
- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of § 262.34 (relating to accumulation).

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

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable occupational safety and health administration 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, nonleaking 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.

(3) A small quantity handler of universal waste who removes mercury-containing ampules from [thermostats]

MERCURY-CONTAINING DEVICES shall determine whether:

(i) The following exhibit a characteristic of hazardous waste identified in Chapter 261, Subchapter C:

(A) Mercury or clean-up residues resulting from spills or leaks.

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining [thermostat] MERCURY DEVICE units).

(ii) If the mercury, residues or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in

compliance with applicable requirements of Chapters 261–265 and Chapter 266, Subchapters C–I. The handler is considered the generator of the mercury, residues or other waste and is subject to Chapter 262.

(iii) If the mercury, residues or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with the applicable municipal or residual waste regulations.

(d) UNIVERSAL WASTE MERCURY-CONTAINING LAMPS. A SMALL QUANTITY HANDLER OF UNIVERSAL WASTE SHALL MANAGE UNIVERSAL WASTE MERCURY-CONTAINING LAMPS IN A WAY THAT PREVENTS BREAKAGE OF THE MERCURY-CONTAINING LAMPS AND ALSO PREVENTS RELEASES OF ANY UNIVERSAL WASTE OR COMPONENT OF A UNIVERSAL WASTE TO THE ENVIRONMENT AS FOLLOWS:

(1) ALL MERCURY-CONTAINING LAMPS SHALL BE STORED IN SUCH A WAY TO MINIMIZE BREAKAGE.

(2) ALL BROKEN MERCURY-CONTAINING LAMPS SHALL IMMEDIATELY BE CLEANED UP AND PLACED IN A CLOSED, STRUCTURALLY SOUND CONTAINER THAT IS COMPATIBLE WITH THE CONTENTS OF THE LAMP.

[(d)] (e) EPA determination. A small quantity handler of universal waste shall manage other universal wastes determined by the EPA to be universal wastes managed under 40 CFR Part 273 (relating to standard universal waste management) according to the applicable requirements of 40 CFR Part 273.

§ 266.214. Labeling/markings.

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

(1) Universal waste batteries (that is, each battery), or a container in which the batteries are contained, shall be labeled or marked clearly with one of the following phrases: "universal waste-battery(ies), or "waste batter(ies)," or "used battery(ies)."

(2) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in § 266.203(a)(1) (relating to applicability-pesticides) are contained shall be labeled or marked clearly with the following:

(i) The label that was on or accompanied the product as sold or distributed.

(ii) The words "universal waste-pesticide(s)" or "waste- pesticide(s)."

(3) A container, tank or transport vehicle or vessel in which unused pesticide products as described in § 266.203(a)(2) are contained shall be labeled or marked clearly with:

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

(ii) The appropriate label as required under the United States Department of Transportation regulation in 49 CFR Part 172 (relating to hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements), if using the labels described in paragraph (1) is not feasible.

(iii) Another label prescribed or designated by the waste pesticide collection program administered or recognized by

the Department of Agriculture or collection program of another state, if using the labels described in paragraphs (1) and (2) is not feasible.

(iv) The words "universal waste-pesticide(s)" or "waste- pesticide(s)."

(4) Universal waste [thermostats] MERCURY-CONTAINING DEVICES (that is, each [thermostat] MERCURY-CONTAINING DEVICE), or a container in which the [thermostats] DEVICES are contained, shall be labeled or marked clearly with one of the following phrases: "universal waste mercury-containing [thermostat(s)] DEVICE(S)," or "waste mercury-containing [thermostat(s)] DEVICE(S)," or "used mercury-containing [thermostat(s)] DEVICE(S)."

(5) UNIVERSAL WASTE MERCURY-CONTAINING LAMPS (THAT IS, EACH LAMP), OR THE CONTAINER IN WHICH THE LAMPS ARE CONTAINED, SHALL BE LABELED OR MARKED CLEARLY WITH ONE OF THE FOLLOWING PHRASES: "UNIVERSAL WASTE MERCURY-CONTAINING LAMP(S)," OR "WASTE MERCURY-CONTAINING LAMPS," OR "USED MERCURY-CONTAINING LAMPS".

[(5)] (6) A small quantity handler of universal waste shall label or mark other universal wastes determined by the EPA to be universal wastes managed under 40 CFR Part 273 (relating to standard universal waste management) according to the applicable requirements of 40 CFR Part 273.

#### **§ 266.230. Applicability.**

(a) This subchapter applies to large quantity handlers of universal waste as defined in § [266.206] 266.207 (relating to definitions).

(b) A large quantity handler of universal waste complying with this subchapter is deemed to have a permit for the storage of universal wastes.

**§ 266.232. Notification.**

(a) Notification requirements include:

(1) Except as provided in paragraphs (2) and (3), a large quantity handler of universal waste shall have sent written notification of universal waste management to the regional administrator of the EPA, 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 the EPA of hazardous waste management activities and has received an EPA identification number is not required to renotify the EPA under this section.

(3) A large quantity handler of universal waste who manages recalled universal waste pesticides as described in § 266.203(a)(1) (relating to applicability-pesticides) and who has sent notification to the EPA as required by 40 CFR Part 165 (relating to pesticide management and disposal: standards for pesticide containers and containment) is not required to notify EPA for those recalled universal waste pesticides under this section. (b)

(b) This notification shall 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 (for example, batteries, pesticides, [thermostats] MERCURY-CONTAINING LAMPS AND DEVICES).

(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 (for example, batteries, pesticides, [thermostats] MERCURY-CONTAINING LAMPS AND DEVICES) the handler is accumulating above this quantity.

§ 266.233. Waste management.

\* \* \* \* \*

(c) A large quantity handler of universal waste shall manage universal waste [thermostats] MERCURY-CONTAINING DEVICES 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 shall contain a universal waste [thermostat] MERCURY-CONTAINING DEVICE that shows evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the [thermostat] DEVICE, and 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] MERCURY-CONTAINING DEVICES if 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 (for example, a tray or pan sufficient to contain mercury released from an ampule in case of breakage).
- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of § 262.34 (relating to accumulation).
- (iv) Immediately transfers mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of § 262.34.
- (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (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, nonleaking 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.

(3) A large quantity handler of universal waste who removes mercury-containing ampules from [thermostats]

MERCURY-CONTAINING DEVICES shall determine:

(i). Whether the following exhibit a characteristic of hazardous waste identified in Chapter 261, Subchapter C:

(A) Mercury or clean-up residues resulting from spills or leaks.

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining [thermostat] MERCURY-CONTAINING DEVICE units).

(ii) If the mercury, residues or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with applicable requirements of this article. The handler is considered the generator of the mercury, residues or other waste and is subject to Chapter 262 (relating to generators of hazardous waste).

(iii) If the mercury, residues or other solid waste is not hazardous, the handler shall manage the waste in compliance with applicable municipal or residual waste regulations.

(d) A LARGE QUANTITY HANDLER OF UNIVERSAL WASTE SHALL MANAGE UNIVERSAL WASTE MERCURY-CONTAINING LAMPS IN A WAY THAT PREVENTS BREAKAGE OF THE LAMPS AND ALSO PREVENTS RELEASES OF ANY UNIVERSAL WASTE OR COMPONENT OF A UNIVERSAL WASTE TO THE ENVIRONMENT AS FOLLOWS:

(1) ALL MERCURY-CONTAINING LAMPS SHALL BE STORED IN SUCH A WAY TO MINIMIZE BREAKAGE.

(2) ALL BROKEN MERCURY-CONTAINING LAMPS SHALL IMMEDIATELY BE CLEANED UP AND PLACED IN A CLOSED, STRUCTURALLY SOUND CONTAINER THAT IS COMPATIBLE WITH THE

## CONTENTS OF THE LAMP.

[(d)] (e) A large quantity handler of universal waste shall manage other universal wastes determined by the EPA to be universal wastes managed under 40 CFR Part 273 (relating to standards for universal waste management) according to the applicable requirements of 40 CFR Part 273.

### **§ 266.234. Labeling/markings.**

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

(1) Universal waste batteries (that is, each battery), or a container or tank in which the batteries are contained, shall be labeled or marked clearly with one of the following phrases: "universal waste-battery(ies)," or "waste battery(ies)" or "used battery(ies)."

(2) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in § 266.203(a)(1) (relating to applicability-pesticides) are contained shall be labeled or marked clearly with:

(i) The label that was on or accompanied the product as sold or distributed.

(ii) The words "universal waste-pesticide(s)" or "waste- pesticide(s)."

(3) A container, tank or transport vehicle or vessel in which unused pesticide products as described in § 266.203(a)(2) are contained shall be labeled or marked clearly with:

to be universal wastes managed under 40 CFR Part 273 (relating to standard universal waste management) according to the applicable requirements of 40 CFR Part 273.

**§ 266.239. Tracking universal waste shipments.**

(a) A large quantity handler of universal waste shall 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 shall 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 (for example, batteries, pesticides, [thermostats] MERCURY-CONTAINING LAMPS AND DEVICES).

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

(b) A large quantity handler of universal waste shall 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 shall 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 (for example, batteries, pesticides, [thermostats] MERCURY-CONTAINING LAMPS AND DEVICES).

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

(c) Record retention is as follows:

(1) A large quantity handler of universal waste shall retain the records described in subsection (a) for at least 3 years from the date of receipt of a shipment of universal waste.

(2) A large quantity handler of universal waste shall retain the records described in subsection (b) for at least 3 years from the date a shipment of universal waste left the facility.

**§ 266.262. Tracking universal waste shipments.**

(a) The owner or operator of a destination facility shall 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 shall 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 (for example, batteries, pesticides, [thermostats] MERCURY-CONTAINING LAMPS AND DEVICES).

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

.

(b) The owner or operator of a destination facility shall retain the records described in subsection (a) for at least 3 years from the date of receipt of a shipment of universal waste.

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

(ii) If not feasible, the appropriate label as required under the United States Department of Transportation regulations at 49 CFR Part 172 (relating to hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements), if using the labels described in subparagraph (i) is not feasible.

(iii) Another label prescribed or designated by the pesticide collection program approved by the Department of Agriculture or collection program of another state, if using the labels described in subparagraphs (i) and (ii) is not feasible.

(iv) The words "universal waste-pesticide(s)" or "waste- pesticide(s)."

(4) Universal waste [thermostats] MERCURY-CONTAINING DEVICES (that is, each [thermostat] DEVICE), or a container or tank in which the [thermostats] DEVICES are contained, shall be labeled or marked clearly with one of the following phrases: "universal waste mercury-containing [thermostat(s)] DEVICE(S)," or "waste mercury-containing [thermostat(s)] DEVICE(S)" or "used mercury-containing [thermostat(s)] DEVICE(S)."

(5) UNIVERSAL WASTE MERCURY-CONTAINING LAMPS (THAT IS, EACH LAMP), OR THE CONTAINER IN WHICH THE LAMPS ARE CONTAINED, SHALL BE LABELED OR MARKED CLEARLY WITH ONE OF THE FOLLOWING PHRASES: "UNIVERSAL WASTE MERCURY-CONTAINING LAMP(S)," OR "WASTE MERCURY-CONTAINING LAMPS," OR "USED MERCURY-CONTAINING LAMPS".

[(5)] (6) A large quantity handler of universal waste shall label or mark other universal wastes determined by the EPA



Pennsylvania Department of Environmental Protection

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Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063  
August 17, 1999

The Secretary

717-787-2814

Mr. Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission  
14th Floor, Harrisburg II  
Harrisburg, PA 17101

RE: Proposed Rulemaking: Universal Waste Rule – Addition of Wastes (#7-347)

Dear Bob:

Enclosed is a copy of a proposed regulation for review and comment by the Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on August 28, 1999, with a 60-day public comment period. This proposal was approved by the Environmental Quality Board (EQB) on July 20, 1999.

The Universal Waste Rule is a set of environmentally protective, simplified standards for the management of certain hazardous wastes identified as universal wastes. This proposal adds mercury-containing lamps and mercury-containing devices to the list of wastes to be managed as universal wastes in Pennsylvania. Managing the wastes in this way is anticipated to reduce management costs and thereby encourage recycling of these waste streams. The proposal was initiated as a result of two petitions submitted to DEP by Advanced Environmental Recycling Corporation (AERC) in August 1997.

Companion federal regulations exist for universal waste at 40 CFR Part 273. EPA recently issued notice that it intends to add fluorescent lamps to the federal Universal Waste Rule effective on January 1, 2000. In the interim, however, DEP is proceeding with this proposed rulemaking in its present form.

The Solid Waste Advisory Committee (SWAC) supported a draft of the proposal on March 11, 1999.

The Department will provide the Commission with any assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Act provides that the Commission may, within ten days after the expiration of the Committee review period, notify the agency of any objections to the proposed regulation. The Department will consider any comments or suggestions received by the Commission, together with Committee and other public comments prior to final adoption.

For additional information, please contact Sharon Freeman, Regulatory Coordinator, at 783-1303.

Sincerely,

James M. Seif  
Secretary

Enclosure





TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 7-347

SUBJECT: Universal Waste Rule - Addition of Wastes

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

93 AUG 17 PM 3:52

TYPE OF REGULATION

X Proposed Regulation

Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

8-17-99

*Cindy Zim*

HOUSE COMMITTEE ON ENVIRONMENTAL  
RESOURCES & ENERGY

*Bob A. Castelli 8-17-99*

SENATE COMMITTEE ON ENVIRONMENTAL  
RESOURCES & ENERGY

8/17/99 *Kim C. Gurner*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

8/17/99 *Maureen Carver*

LEGISLATIVE REFERENCE BUREAU

August 9, 1999