

PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CHS. 123 AND 145]

Interstate Ozone Transport Reduction; Advance Notice of Final Rulemaking

The Department of Environmental Protection (Department) is reopening the comment period on changes it recommends be made to the draft final regulatory revisions establishing the Interstate Ozone Transport Reduction Program. A notice of availability of these draft changes and an opportunity to comment were published at 30 Pa.B. 399 (January 22, 2000).

The draft final regulation establishes a program to limit the emission of nitrogen oxides (NO_x) from fossil fired combustion units with rated heat input capacity of greater than 250 MMBtu per hour and electric generating facilities of greater than 25 megawatts. This program, which is scheduled to begin in 2003, would replace the existing NO_x allowance requirements contained in Chapter 123 and would be applicable to facilities located in this Commonwealth and each State that significantly contributes to ozone nonattainment in this Commonwealth.

A. Summary of Advance Notice of Final Rulemaking Changes

The draft final regulations do not include the proposed "Subchapter B. Emissions of NO_x From Stationary Reciprocating Internal Combustion Engines" or "Subchapter C. Emissions of NO_x From Cement Manufacturing Provisions" contained in the proposed rulemaking (§§ 145.101—145.144). The Department is not planning to finalize these chapters at this time. Only the NO_x Budget Trading Program contained in Chapter 145, Subchapter A is being published for additional comment herewith (§§ 145.1—145.100).

A number of significant changes have been made to the NO_x Budget Trading Program. The significant changes are described in the following. A number of other technical amendments have also been made to the proposed rule.

One of the most significant changes to the proposed rule is the addition of § 145.100 (relating to applicability to upwind States). The Department made this change in response to comments. This section makes the NO_x Budget Trading Program applicable to facilities located in states that significantly contribute to ozone nonattainment in the Commonwealth. The only way for the Commonwealth to achieve the 1-hour NAAQS for ozone is to require those polluting the air in the Commonwealth to participate in the NO_x Budget Trading Program regardless of whether the source is located in the Commonwealth or another state. Consequently, NO_x Budget Units located in the states of Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, North Carolina and Washington, D.C. are included within the regulatory program established by the Department. Compliance by facility owners and operators with the remedy established by EPA under section 126 of the Clean Air Act is an alternative with compliance to the Department's pro-

gram. Facilities located in each of the states listed in the Department's draft final regulation are subject to emission limitations established by EPA under section 126 of the Clean Air Act. Full implementation of an approved SIP to reduce interstate transport is also an alternative to compliance with the requirements of the Department's regulations. Because this provision of the draft final regulations raises a number of complicated legal and policy issues, the Department has prepared a more in depth evaluation of those issues in a document entitled "Interstate Pollution Transport Reductions Assuring All States Do Their Fair Share." A copy of that document is available upon request from J. Wick Havens.

The draft final regulations has been modified to be consistent with the emission limitations established by the EPA in response to Petitions submitted by this Commonwealth and three other states under section 126 of the Clean Air Act. This includes modifications to the applicability provisions of § 145.4, the State trading program budget established under § 145.40, the timing requirements in § 145.41, the NO_x allowance allocations in § 145.42 and the provisions related to the compliance supplement pool in § 145.43.

The Department has eliminated references to permitting requirements in the draft final regulations. The draft final regulations continues to describe the process that the Department will use to establish State NO_x budgets and allocate those budgets to individual facilities. The Department will publish notice of the state budgets and NO_x allocations in the *Pennsylvania Bulletin* under §§ 145.40(d) and 145.42(i).

B. Public Hearings

The Department will hold three public hearings for the purpose of accepting comments on the draft final revisions. The hearings will be held at 1 p.m. as follows:

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|----------------|---|
| March 22, 2000 | Department of Environmental Protection
Southwest Regional Office
Monongahela Room
400 Waterfront Drive
Pittsburgh, PA |
| March 23, 2000 | Department of Environmental Protection
Southeast Regional Office
Main Conference Room
Suite 6010, Lee Park
555 North Lane
Conshohocken, PA |
| March 24, 2000 | Department of Environmental Protection
Southcentral Regional Office
Codorus Room
909 Elmerton Avenue
Harrisburg, PA |

Persons wishing to present testimony at the hearings must contact Connie Cross at the Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone (717) 787-4310 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and three written copies of the oral testimony are requested to be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodation to participate should contact Connie Cross at (717) 787-4310 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

C. Contact Persons

For further information or to request a copy of the draft final regulation contact J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4310 or M. Dukes Pepper, Jr., Assistant Director, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The draft final regulations are available electronically through the Department website (<http://www.dep.state.pa.us>).

D. Submitting Comments

Written comments should be addressed to J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468. Comments may also be transmitted electronically to Havens.Wick@dep.state.pa.us. If the sender does not receive an acknowledgment of electronic comments within 2 working days, the comment should be resubmitted to ensure receipt. Comments must be received by March 27, 2000. A subject heading of the proposal and a return name and address must be included in each letter or transmission. Comments will not be accepted by facsimile or voice mail.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 00-339. Filed for public inspection February 25, 2000, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 261a, 266b, 268a AND 270a] Universal Waste Rule—Addition of Mercury- Containing Devices

The Environmental Quality Board (Board) proposes to amend Chapters 261a, 266b, 268a and 270a to add 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 December 21, 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 Kurt Klappowski, 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 (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection (Department) 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. Chapter 266b incorporates 40 CFR Part 273, Subpart G in its entirety. Subpart G includes a petition process which allows any person to petition for other wastes to be managed as universal wastes under Part 273 (relating to standards for universal waste management). In addition, the Board's policy for handling rulemaking petitions is found in Chapter 23. Chapter 23 is referenced in § 260a.20 and governs petitions for rulemaking under the hazardous waste regulations.

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 ampule 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 2-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.

Since that time, the Environmental Protection Agency (EPA) has published final rulemaking that will allow universal waste lamps (a category of waste that includes mercury-containing lamps) to be managed as universal waste. The new Federal regulations will become effective on January 6, 2000. Because the Commonwealth incorporates changes to the Federal regulations by reference, hazardous waste lamps will become universal waste in this Commonwealth at that time. The Board feels that continuing with a proposed rulemaking for mercury-containing lamps would only be redundant, confusing and unnecessary, and therefore has not included mercury-containing lamps in this rulemaking proposal.

Based on the results of the survey and continued dialogue with other states, the Board has concluded that allowing operators to manage mercury-containing devices in accordance with the universal waste standards will encourage recycling of these wastes without the potential for increased environmental or public health and safety concern. Accordingly, the proposed rulemaking adds mercury-containing devices to the list of hazardous wastes that may be managed as universal wastes.

This proposed rulemaking was initially reviewed and approved by SWAC on March 11, 1999. The format of the Commonwealth's hazardous waste regulations was changed on May 1, 1999, when the Commonwealth incorporated the majority of the Federal hazardous waste regulations by reference. This change in regulatory format necessitated a change in the format of this proposed rule. The format change and the removal of mercury-containing lamps from the proposal were discussed with SWAC at its meeting of September 9, 1999. SWAC approved the proposed changes at that time.

E. Summary of Regulatory Requirements

§ 261a.8. Requirements for universal waste.

The Board is proposing to add mercury-containing devices to the list of wastes subject to regulation under Chapter 266b (relating to Universal Waste Management).

§ 266b.1. Incorporation by reference and scope.

The Board proposes to amend this section of the regulations to include mercury-containing devices as hazardous wastes that may be managed as universal wastes in this Commonwealth. Presently, only wastes included in the Federal program (mercury thermostats, batteries and certain pesticides) are regulated as universal wastes in this Commonwealth.

§ 266b.2. Applicability—mercury-containing devices.

The Board proposes to add this section to the regulations to clarify that the scope of the universal waste standards contained in Chapter 266b includes mercury-containing devices and that, with the exception of mercury-containing devices listed in subsection (b), all mercury-containing devices may be managed in accordance with the universal waste standards.

§ 266b.3. Definitions.

The Board is proposing to add a definitions section to Chapter 266b to include the term "mercury-containing device." In addition, the Federal definition of "universal waste" is being modified to include mercury-containing devices.

§ 266b.11. Waste management.

The Board is proposing to amend § 266b.11 to include the term "mercury-containing devices." This change broadens the class of hazardous wastes that small quantity handlers of universal waste may manage as universal waste in this Commonwealth.

§ 266b.12. Labeling/marketing.

The Board is proposing to add § 266b.12 to include requirements for small quantity handlers to label and mark containers that hold universal waste mercury-containing devices.

§ 266b.31. Waste management.

The Board is proposing to include the term "mercury-containing devices" in § 266b.31. The proposed provision requires large quantity handlers to store universal waste mercury-containing devices in a manner that minimizes spillage of mercury and helps to ensure immediate containment and clean up of any broken mercury-containing devices. The provision also requires large quantity handlers to place any broken mercury-containing devices in a closed, structurally sound container.

§ 266b.32. Labeling/marketing.

The Board is proposing to add § 266b.32 to the regulations to require large quantity handlers of universal waste to properly mark and label containers that hold mercury-containing devices.

§ 268a.1. Incorporation by reference, purpose, scope and applicability.

The Board is proposing to add subsection (c) to § 268a.1 to allow the management of mercury-containing devices as universal waste under the land disposal restrictions.

§ 270a.1. Incorporation by reference, scope and applicability.

The Board is proposing to add subsection (d) to § 270a.1 to allow mercury-containing devices to be managed as universal waste under Chapter 270a (relating to Hazardous Waste Permit Program).

F. *Benefits, Costs and Compliance*

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

Benefits

Incorporating 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. 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 devices. The volume of these wastes currently generated in this Commonwealth 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.

More important than the cost savings is the potential decrease in unlawful disposal of mercury-containing devices 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, and the like) while a bill of lading does not require this 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 devices. The Department will also continue to work with the regulated community to explain how individuals, corporations or associations can establish collection systems for 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 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

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 3, 2000, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for review by the General Assembly and the Governor of objections raised by IRRC prior to publication of the final-form amendments by the Department.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking 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 April 26, 2000 (within 60 days of publication in the *Pennsylvania Bulletin*). 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 April 26, 2000 (within 60 days following publication in the *Pennsylvania Bulletin*). 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 April 26, 2000.

JAMES M. SEIF,
Chairperson

Fiscal Note: 7-347; no fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 261a.8. Requirements for universal waste.

In addition to the requirements incorporated by reference, mercury-containing devices as defined in § 266b.3 (relating to definitions) are included as wastes subject to regulation under Chapter 266b (relating to universal waste management).

CHAPTER 266b. UNIVERSAL WASTE MANAGEMENT

§ 266b.1. Incorporation by reference and scope.

(a) Except as expressly provided in this chapter, 40 CFR Part 273 (relating to standards for universal waste management) is incorporated by reference.

(b) In addition to the requirements incorporated by reference in 40 CFR 273.1(a) (relating to scope), mercury-containing devices as defined in § 266b.3 (relating to definitions) are included as wastes subject to regulation under this chapter.

(c) In addition to the requirements incorporated by reference in 40 CFR 273.4 (relating to applicability—mercury thermostats), mercury-containing devices as defined in § 266b.3 are included as wastes subject to the standards specified for thermostats in this chapter.

(d) In addition to the requirements incorporated by reference in 40 CFR 273.6 (relating to definitions), mercury-containing devices as defined in § 266b.3 are included as wastes listed in the definition of “universal waste.”

§ 266b.2. Applicability—mercury-containing devices.

(a) In addition to the requirements incorporated by reference in 40 CFR Part 273 (relating to standards for universal waste management), this chapter applies to persons managing mercury-containing devices as defined in § 266b.3 (relating to definitions), except those listed in subsection (b).

(b) This section does not apply to persons managing the following mercury-containing devices:

(1) Mercury-containing devices that are not yet wastes under Chapter 261a. Subsections (c) and (d) describe when mercury-containing devices become wastes.

(2) Mercury-containing devices that are not hazardous waste. A mercury-containing device is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR Part 261, Subpart C.

(c) A used mercury-containing device becomes a waste on the date it is discarded or sent for reclamation.

(d) An unused mercury-containing device becomes a waste on the date the handler discards it.

§ 266b.3. Definitions.

In addition to the definitions incorporated by reference in 40 CFR Part 273.6 (relating to definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Mercury-containing device—A product or component of a product (excluding batteries) which contains elemental mercury that is necessary for operation of the device.

Subchapter B. SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE

§ 266b.11. Waste management for universal waste mercury-containing devices.

In addition to the requirements incorporated by reference in 40 CFR 273.13 (relating to waste management), the following apply:

(1) A small quantity handler of universal waste shall contain any universal waste 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 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 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 40 CFR 262.34 (relating to accumulation time).

(iv) Immediately transfers 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 occupational safety and health administration exposure levels for mercury.

(vi) Ensures that employes 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 mercury-containing devices shall determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR Part 261, Subpart C (relating to characteristics of hazardous waste):

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

(ii) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining mercury device units).

(4) If the mercury, residue or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with applicable requirements of Chapters 261a—265a. The handler is considered the generator of the mercury, residues or other waste and is subject to Chapter 262a (relating to standards applicable to generators of hazardous waste).

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

§ 266b.12. Labeling/markings.

In addition to the requirements incorporated by reference in 40 CFR 273.14 (relating to labeling/markings), a small quantity handler of universal waste shall label each mercury-containing device, or a container in which the device is contained, with one of the following phrases: “universal waste mercury-containing device(s),” or “waste mercury-containing device(s)” or “used mercury-containing device(s)”.

Subchapter C. LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

§ 266b.31. Waste Management for universal waste mercury-containing devices.

In addition to the requirements incorporated by reference in 40 CFR 273.33 (relating to waste management), the following apply:

(1) A large quantity handler of universal waste shall contain any universal waste 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 mercury-containing 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 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 40 CFR 262.34 (relating to accumulation time).

(iv) Immediately transfers 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 occupational safety and health administration exposure levels for mercury.

(vi) Ensures that employes 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 mercury-containing devices shall determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR Part 261, Subpart C (relating to characteristics of hazardous waste):

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

(ii) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining mercury device units).

(4) If the mercury, residue or other solid waste, exhibits a characteristic of hazardous waste, it shall be managed in compliance with applicable requirements of Chapters 261a—265a and Chapter 266a, Subchapters C—I. The handler is considered the generator of the mercury, residue or other waste and is subject to Chapter 262a (relating to standards applicable to generators of hazardous waste).

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

§ 266b.32. Labeling/markings.

In addition to the requirements incorporated by reference in 40 CFR 273.34 (relating to labeling/markings), a large quantity handler of universal waste shall label each mercury-containing device, or a container in which the device is contained, with one of the following phrases: “universal waste

mercury-containing device(s),” or “waste mercury-containing device(s)” or “used mercury-containing device(s)”.

CHAPTER 268a. LAND DISPOSAL RESTRICTIONS

Subchapter A. GENERAL

§ 268a.1. Incorporation by reference, purpose, scope and applicability.

* * * * *

(c) In addition to the requirements incorporated by reference in 40 CFR 268.1 (relating to purpose, scope and applicability), universal waste mercury-containing devices as described in § 266b.2 (relating to applicability—mercury-containing devices) shall also be managed in accordance with 40 CFR 268.1(f).

CHAPTER 270a. HAZARDOUS WASTE PERMIT PROGRAM

§ 270a.1. Incorporation by reference, scope and applicability.

* * * * *

(d) In addition to the requirements incorporated by reference in 40 CFR 270.1 (relating to purpose and scope of these regulations), waste mercury-containing devices as described in § 266b.1 (relating to incorporation by reference and scope) shall be managed in accordance with 40 CFR 270.1(c)(2)(viii).

[Pa.B. Doc. No. 00-340. Filed for public inspection February 25, 2000, 9:00 a.m.]