NEBRASKA ADMINISTRATIVE CODE

Title 128 - Department of Environmental Quality

Chapter 25 - STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

001 Scope

001.01 This chapter establishes requirements for managing the following:

001.01A Batteries as described in 002 of this chapter;

001.01B Pesticides as described in 003 of this chapter;

001.01C Mercury-containing items as described in 004 of this chapter;

001.01D Lamps as described in 005 of this chapter; and

001.01E Electronic items as described in 006 of this chapter.

001.02 This chapter provides an alternative set of management standards in lieu of regulation under Title 128, Chapters 1 through 24.

002 Applicability--batteries.

002.01 Batteries covered under Title 128, Chapter 25.

002.01A The requirements of this chapter apply to persons managing batteries, as defined in 008, except those listed in 002.02 of this chapter.

002.01B Spent Lead-acid batteries which are not managed under Title 128, Chapter 7 are subject to management under this chapter.

002.02 Batteries not covered under Title 128, Chapter 25. The requirements of this chapter do not apply to persons managing the following batteries:

002.02A Spent lead-acid batteries that are managed under Title 128, Chapter 7.

002.02B Batteries, as defined in 008 that are not yet wastes under Title 128, Chapter 2, including those that do not meet the criteria for waste generation in 002.03 of this chapter.

002.02C Batteries, as defined in 008, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Title 128, Chapter 3, 005 through 010.

002.03 Generation of waste batteries.

002.03A A used battery becomes a waste on the date it is discarded.

002.03B An unused battery becomes a waste on the date the handler decides to discard it.

003 Applicability -- pesticides.

003.01 Pesticides covered under Title 128. Chapter 25. The requirements of this chapter apply to persons managing pesticides, as defined in 008, meeting the following conditions, except those listed in paragraph 003.02 of this chapter:

003.01A Recalled pesticides that are:

003.01A1 Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under FIFRA Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or

003.01A2 Stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant.

003.01B Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

003.02 Pesticides not covered under Title 128, Chapter 25. The requirements of this chapter do not apply to persons managing the following pesticides:

003.02A Recalled pesticides described in 003.01A of this chapter and unused pesticide products described in 003.01B of this chapter, that are managed by farmers in compliance with Title 128, Chapter 10, 007.

003.02B Pesticides not meeting the conditions set forth in 003.01 of this chapter. These pesticides must be managed in compliance with the hazardous waste regulations in Title 128, Chapters 1 through 24.

003.02C Pesticides that are not wastes under Title 128, Chapter 2, 003 including those that do not meet the criteria for waste generation in 003.03 of this chapter or those that are not wastes as described in 003.04 of this chapter; and

003.02D Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in Title 128, Chapter 3, or if it exhibits one or more of the characteristics identified in Title 128, Chapter 3, 005 through 010.

003.03 When a pesticide becomes a waste.

003.03A A recalled pesticide described in 003.01A of this chapter becomes a waste on the first date on which both of the following conditions apply:

003.03A1 The generator of the recalled pesticide agrees to participate in the recall; and

003.03A2 The person conducting the recall decides to discard the pesticide.

003.03B An unused pesticide product described in 003.01B of this chapter becomes a waste on the date the generator decides to discard it.

003.04 Pesticides that are not wastes. The following pesticides are not wastes:

003.04A Recalled pesticides described in 003.01A of this chapter provided that the person conducting the recall:

003.04A1 Has not made a decision to discard the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under Title 128, Chapter 2, 003; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this Chapter 25. This pesticide remains subject to the requirements of FIFRA; or

003.04A2 Has made a decision to use a management option that, under Title 128, Chapter 2, 003, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including Chapter 25. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

003.04B Unused pesticide products described in 003.01B of this chapter, if the generator of the unused pesticide product has not decided to discard them. These pesticides remain subject to the requirements of FIFRA.

004 Applicability -- mercury-containing items.

004.01 Mercury-containing items covered under Title 128, Chapter 25. The requirements of this chapter apply to persons managing mercury-containing items, as described in 008 except those listed in 004.02 of this chapter.

004.02 Mercury-containing items not covered under Title 128, Chapter 25. The requirements of this chapter do not apply to persons managing the following mercury-containing items:

004.02A Mercury-containing items that are not yet wastes under Title 128, Chapter 2. Section 004.03 of this chapter describes when mercury-containing items become wastes.

004.02B Mercury-containing items that are not hazardous waste. A mercury-containing item is a hazardous waste if it exhibits one or more of the characteristics identified in Title 128, Chapter 3, 005 through 010.

004.03 Generation of waste mercury-containing items.

004.03A A used mercury-containing item becomes a waste on the date it is discarded.

004.03B An unused mercury-containing item becomes a waste on the date the handler decides to discard it.

005 Applicability -- Lamps.

005.01 Lamps covered under Title 128, Chapter 25. The requirements of this part apply to persons managing lamps as described in 008, except those listed in paragraph 005.02 of this chapter.

005.02 Lamps not covered under Title 128, Chapter 25. The requirements of this chapter do not apply to persons managing the following:

005.02A Lamps that are not yet wastes under Title 128, Chapter 2. Section 005.03 of this chapter describes when lamps become wastes.

005.02B Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Title 128, Chapter 3.

005.03 Generation of waste lamps.

005.03A A used lamp becomes a waste on the date it is discarded.

005.03B An unused lamp becomes a waste on the date the handler decides to discard it.

006 Applicability –- Electronic Items.

006.01 Electronic items covered under Title 128, Chapter 25. The requirements of this part apply to persons managing electronic items as described in 008, except those listed in section 006.02 of this chapter.

006.02 Electronic items not covered under Title 128, Chapter 25. The requirements of this chapter do not apply to persons managing the following:

006.02A Electronic items that are not yet wastes under Title 128, Chapter 2. Section 006.03 of this chapter describes when electronic items become wastes.

006.02B Electronic items that are not hazardous waste. An electronic item is a hazardous waste if it exhibits one or more of the characteristics identified in Title 128, Chapter 3.

006.03 Generation of electronic items.

006.03A A used electronic item destined for disposal becomes a waste on the date it is discarded.

006.03B A used electronic item destined for recycling becomes a waste on the date the recycler determines that the item cannot be resold, donated, repaired, or refurbished, or determines that he/she cannot directly reuse or sell useable parts from the item.

006.03C An unused electronic item becomes a waste on the date the handler decides to discard it.

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

007.01 Persons managing the wastes listed below may, at their option, manage them under the requirements of this chapter:

007.01A Household wastes that are exempt under Title 128, Chapter 2, 009, and are also of the same type as the universal wastes defined at Title 128, Chapter 25, 008; and/or

007.01B Conditionally exempt small quantity generator wastes that are exempt under Title 128, Chapter 8, and are also of the same type as the universal wastes defined at Title 128, Chapter 25, 008.

007.02 Persons who commingle the wastes described in 007.01A and 007.01B of this chapter together with universal waste regulated under this chapter must manage the commingled waste under the requirements of this chapter.

008 The following definitions are for the purposes of Chapter 25.

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

008.02 "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 012.01, 012.03, 012.04, 023.01, 023.03, and 023.04 of this chapter. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

008.03 “Electronic item” means electronic equipment that contains one or more electronic circuit boards or other complex circuitry, including but not limited to computer monitors, televisions, central processing units (CPUs), laptop computers, printers, terminals, keyboards, mainframes, stereo equipment, telephones, and recording/playback devices. Electronic items include components and subassemblies or other parts derived from the disassembly of electronic devices. While many waste electronic items do not fail the toxicity characteristic leaching procedure test for heavy metals if left intact, individual components generated by disassembly may fail the toxicity characteristic leaching procedure test. “Electronic items” does not include discarded household appliances as defined by Title 132 – Integrated Solid Waste Management Regulations, Chapter 1, 034.

008.04 "FFDCA" means Federal Food Drug and Cosmetic Act (21 U.S.C. §301 et seq).

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

008.06 “Lamp”, also referred to as “universal waste lamp”, is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

008.07 "Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing items, lamps, or electronic items, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

008.08 “Mercury-containing item” means any electrical, mechanical, or medical product or component (excluding batteries and lamps) which contains elemental mercury and the elemental mercury is necessary for its operation where the mercury acts as a conductor of temperature, pressure, or electricity**,** or acts as a weight damper. The mercury must be housed within an outer metal, glass, or plastic casing. Mercury-containing devices include but are not limited to; barometers, sphygmomanometers, electrical switches and relays, gauges and flow regulators, manometers, bow stabilizers, thermometers, thermocouples, and mercury-filled pumps.

008.09 "OSHA" means Occupational Safety and Health Act 29 U.S.C §651 et seq).

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

008.10A Is a new animal drug under FFDCA section 201(w), or

008.10B Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

008.10C Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by 008.08A or 008.08B of this chapter.

008.11 "Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, mercury-containing items, lamps, or electronic items, calculated collectively) at any time.

008.12 "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have

been removed from these temperature control devices in compliance with the requirements of 012.03B1 through 012.03B8 or 023.03B1 through 023.03B8 of this chapter.

008.13 "Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of Title 128, Chapter 25.

008.13A Batteries as described in Title 128, Chapter 25, 002;

008.13B Pesticides as described in Title 128, Chapter 25, 003;

008.13C Mercury-containing items as described in Title 128, Chapter 25, 004; and

008.13D Lamps as described in Title 128, Chapter 25, 005.

008.13E Electronic items as described in Title 128, Chapter 25, 006.

008.14 Universal Waste Handler:

008.14A Means:

008.14A1 A generator of universal waste; or

008.14A2 The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility or to a foreign destination.

008.14B Does not mean:

008.14B1 A person who treats (except under the provisions of 012.01, 012.03, 012.04, 023.01, 023.03 or 022.04 of this chapter) or disposes of, or recycles universal waste; or

008.14B2 A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

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

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

009 Small Quantity Handlers of Universal Waste. Sections 009 through 018.03 of this chapter define standards for small quantity handlers of universal waste.

010 Prohibitions. A small quantity handler of universal waste is:

010.01 Prohibited from disposing of universal waste; and

010.02 Prohibited from diluting or treating universal waste, except by responding to releases as provided in 015 of this chapter; or by managing specific wastes as provided in 012 of this chapter.

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

012 Waste Management.

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

012.01A A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound,
compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

012.01B A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

012.01B1 Sorting batteries by type;

012.01B2 Mixing battery types in one container;

012.01B3 Discharging batteries so as to remove the electric charge;

012.01B4 Regenerating used batteries;

012.01B5 Disassembling batteries or battery packs into individual batteries or cells;

012.01B6 Removing batteries from consumer products; or

012.01B7 Removing electrolyte from batteries.

012.01C A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3 005 through 010.

012.01C1 If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of Title 128,

Chapters 1 through 24. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

012.01C2 If the electrolyte or other solid waste is not hazardous, the handler must manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

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

012.02A A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

012.02B A container that does not meet the requirements of 012.02A of this chapter, provided that the unacceptable container is overpacked in a container that does meet the requirements of 012.02A of this chapter; or

012.02C A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201; as adopted by reference by Title 128, Chapter 22, 010; or

012.02D A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

012.03 Universal waste mercury-containing items. A small quantity handler of universal waste must manage universal waste mercury-containing items in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

012.03A A small quantity handler of universal waste must contain any universal waste mercury-containing items that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

012.03B A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing items provided the handler:

012.03B1 Removes the ampules in a manner designed to prevent breakage of the ampules;

012.03B2 Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

012.03B3 Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of Title 128, Chapter 10, 004;

012.03B4 Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Title 128, Chapter 10, 004;

012.03B5 Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

012.03B6 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;

012.03B7 Stores removed ampules in closed, non-leaking containers that are in good condition;
012.03B8 Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

012.03B9 A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing items must determine whether the following exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3 005 through 010:

012.03B9(a) Mercury or clean-up residues resulting from spills or leaks; and/or

012.03B9(b) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining mercury-containing item units).

012.03B10 If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to the requirements of Title 128, Chapters 8, 9, and 10.

012.03B11 If the mercury, residues, and/or other solid waste is not hazardous, the handler must manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

012.03C A small quantity handler of universal waste may drain elemental mercury from open-ended mercury-containing items provided the handler:

012.03C1 Ensures that the universal waste mercury-containing items are drained only over a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from a device in case of breakage or spill);

012.03C2 Ensures that the draining operations are performed safely by developing and implementing a written procedure detailing how to safely drain the universal waste mercury-containing items. This procedure must include: the type of equipment to be used to drain universal waste mercury-containing items safely; operation and maintenance of the equipment; segregation of incompatible wastes; proper waste management practices; and waste characterization;

012.03C3 Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste mercury-containing item which might occur during the mercury draining operation;

012.03C4 Immediately transfers the drained elemental mercury to a container that meets the requirements of Title 128, Chapter 10, 004;

012.03C5 Ensures that the area in which the universal waste mercury-containing items are drained is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

012.03C6 Ensures that employees are thoroughly familiar with the procedure for draining universal waste mercury-containing items and proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

012.03C7 Stores the drained elemental mercury in a closed, non-leaking container that is in good condition; and

012.03C8 Maintains documentation of the date of accumulation, a description of the item drained, and the amount of elemental mercury drained.

012.03C9 Does not accumulate over 45 kilograms (almost 100 pounds) of elemental mercury at any one time.

012.03C10 A small quantity handler of universal waste who drains universal waste mercury-containing items, or who generates other solid waste as a result of draining the mercury-containing items, must determine whether the following exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3, 005 through 010:

012.03C10(a) Mercury or clean-up residues resulting from spills or leaks; and/or

012.03C10(b) Other solid waste generated as a result of the draining of elemental mercury (e.g., remaining mercury-containing item units and filters).

012.03C11 If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, they must be managed in accordance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the newly generated hazardous waste and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

012.03C12 If the mercury residues and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state, or local solid waste regulations.

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

012.04A A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

012.04B A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

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

012.05A A small quantity handler of universal waste must contain any universal waste electronic item in containers that are structurally sound, adequate to prevent breakage, and compatible with the contents of the item. Such containers must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

012.05B A small quantity handler of universal waste must immediately clean up and place in a container any electronic item that is broken, and must place in a container any electronic device that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents to the environment. Containers must be structurally sound, compatible with the contents of the electronic item and must lack evidence of leakage, spillage or damage that could cause leakage or releases of hazardous constituents to the environment under reasonably foreseeable conditions.

012.05C A small quantity handler of universal waste may disassemble universal waste electronic items provided the handler:

012.05C1 Ensures that the universal waste electronic items are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;

012.05C2 Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each universal waste electronic item managed at the site. This procedure must include: the type of equipment to be used to disassemble the universal waste electronic items safely; operation and maintenance of all equipment; segregation of incompatible wastes; proper waste management practices; and waste characterization;

012.05C3 Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste electronic item which may occur during disassembly operations;

012.05C4 Immediately segregates and transfers the disassembled electronic items to containers that meet the requirements of 012.05A and 012.05B of this chapter;

012.05C5 Ensures that employees are thoroughly familiar with the procedures for disassembling universal waste electronic items, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

012.05C6 Maintains a system to ensure compliance with the written disassembling and management procedures;

012.05C7 A small quantity handler of universal waste who disassembles universal waste electronic items, or who generates other solid waste as a result of disassembling the electronic items, must determine whether the disassembled electronic item, its components and/or other solid wastes exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3, 005 through 010, or are listed as a hazardous waste identified in Title 128, Chapter 3, 013 through 016;

012.05C8 If the disassembled universal waste electronic item or its components exhibit a characteristic of hazardous waste, they may continue to be managed as universal waste under this chapter. If the disassembled universal waste item or its components are not managed as universal waste under this chapter, then the handler is considered the generator of the newly generated hazardous waste and is subject to all applicable requirements of Title 128, Chapters 8, 9, and 10. The newly generated hazardous waste must be managed in accordance with all applicable requirements of Title 128, Chapters 1 through 24. If the disassembled universal waste electronic items or components become newly generated hazardous waste, the hazardous waste must be contained in containers that meet the requirements of Title 128, Chapter 10, 004;

012.05C9 If the disassembled universal waste electronic item, its components, and/or other solid waste are not hazardous, the handler must manage the waste in a

way that is in compliance with applicable federal, state, and local solid waste regulations.

013 Labeling/marking. A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

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

013.02 A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Title 128, Chapter 25, 003.01A are contained must be labeled or marked clearly with:

013.02A The label that was on or accompanied the product as sold or distributed; and

013.02B The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

013.03 A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Title 128, Chapter 25, 003.01B are contained must be labeled or marked clearly with:

013.03A1 The label that was on the product when purchased, if still legible;

013.03A2 If using the labels described in 013.03A1 of this chapter is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

013.03A3 If using the labels described in 013.03A1 and 013.03A2 of this chapter is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

013.03B The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)".

013.04 Universal waste mercury-containing items, i.e., each mercury-containing item, or a container in which the mercury-containing items are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Mercury-containing Item(s),” or “Waste Mercury-containing Item(s),” or “Used Mercury-containing Item(s).”

013.05 Universal Waste lamps, i.e., each lamp, or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste--Lamps" or "Waste Lamps" or "Used Lamps".

013.06 Universal waste electronic items. Each universal waste electronic item or a container in which universal waste electronic items are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Electronic Item(s),” or “Waste Electronic Item(s),” or “Used Electronic Item(s).” The name of the electronic item may be substituted for the words “Electronic Item(s)” (e.g., “Universal Waste – Monitor(s)” or “Waste Circuit Boards”).

014 Accumulation time limits.

014.01 A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of 014.02 of this chapter are met.

014.02 A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. A small quantity handler of universal waste must obtain written approval from NDEQ Waste Management Section prior to the one year accumulation time limit if the one year accumulation time limit is to be exceeded.

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

014.03A Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

014.03B Marking or labeling each individual item of universal waste (e.g., each battery, mercury-containing item, lamp, or electronic item) with the date it became a waste or was received;

014.03C Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

014.03D Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

014.03E Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

014.03F Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

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

016 Response to releases.

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

016.02 A small quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with Title 128, Chapters 8, 9, and 10.

017 Off-site shipments.

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

017.02 If a small quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of 031 through 037 of this chapter while transporting the universal waste.

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

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

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

017.05A Receive the waste back when notified that the shipment has been rejected, or

017.05B Agree with the receiving handler on an alternative destination facility to which the shipment will be sent.

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

017.06A Send the shipment back to the originating handler, or

017.06B If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

017.07 If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify NDEQ of the illegal shipment, and provide the name, address, and phone number of the originating shipper. NDEQ will provide instructions for managing the hazardous waste.

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

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

019 Exports. A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H) must:

019.01 Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 as incorporated by reference in Title 128, Chapter 9, 007.05.

019.02 Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR 262 subpart E as incorporated by reference in Title 128, Chapter 9, 007.05, and

019.03 Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

020 Large Quantity Handlers of Universal Waste. Sections 021 through 030.03 of this chapter define standards for large quantity handlers of universal waste.

021 Prohibitions. A large quantity handler of universal waste is:

021.01 Prohibited from disposing of universal waste; and

021.02 Prohibited from diluting or treating universal waste, except by responding to releases as provided in 027 of this chapter; or by managing specific wastes as provided in 023 of this chapter.

022 Notification.

022.01A Except as provided in 022.01B and 022.01C of this chapter, a large quantity handler of universal waste must have sent written notification of universal waste management to the Department, and received an Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

022.01B A large quantity handler of universal waste who has already notified the Department of his hazardous waste management activities and has received an

Identification Number is not required to renotify under this section. Such Identification Number shall be known as an NDEQ/EPA Identification Number.

022.01C A large quantity handler of universal waste who manages recalled universal waste pesticides as described in Title 128, Chapter 25, 003.01A and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under this section.

022.02 This notification must include:

022.02A The universal waste handler's name and mailing address;

022.02B 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;

022.02C The address or physical location of the universal waste management activities;

022.02D A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, mercury-containing items, lamps, electronic items);

022.02E A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, mercury-containing items, lamps, electronic items) the handler is accumulating above this quantity.

023 Waste management.

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

023.01A A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

023.01B A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal);

023.01B1 Sorting batteries by type;

023.01B2 Mixing battery types in one container;

023.01B3 Discharging batteries so as to remove the electric charge;

023.01B4 Regenerating used batteries;

023.01B5 Disassembling batteries or battery packs into individual batteries or cells;

023.01B6 Removing batteries from consumer products; or

023.01B7 Removing electrolyte from batteries.

023.01C A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3 005 through 010.

023.01C1 If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

023.01C2 If the electrolyte or other solid waste is not hazardous, the handler must manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

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

023.02A A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

023.02B A container that does not meet the requirements of 023.02A of this chapter, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph 023.02A of this chapter; or

023.02C A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201 as adopted by reference by Title 128, Chapter 22, 010; or

023.02D A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

023.03 Universal waste mercury-containing items. A large quantity handler of universal waste must manage universal waste mercury-containing items in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

023.03A A large quantity handler of universal waste must contain any universal waste mercury-containing item that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the mercury-containing item, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

023.03B A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-contiaing item provided the handler:

023.03B1 Removes the ampules in a manner designed to prevent breakage of the ampules;

023.03B2 Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

023.03B3 Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of Title 128, Chapter 10, 004;

023.03B4 Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Title 128, Chapter 10, 004;

023.03B5 Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

023.03B6 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;

023.03B7 Stores removed ampules in closed, non-leaking containers that are in good condition;

023.03B8 Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

023.03B9 A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing items must determine whether the following exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3, 005 through 010:

023.03B9(a) Mercury or clean-up residues resulting from spills or leaks; and/or

023.03B9(b) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining mercury-containing item units).

023.03B10 If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

023.03B11 If the mercury, residues, and/or other solid waste is not hazardous, the handler must manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

023.03C A large quantity handler of universal waste may drain elemental mercury from open-ended mercury-containing items provided the handler:

023.03C1 Ensures that the universal waste mercury-containing items are drained only over a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from a device in case of breakage or spill);

023.03C2 Ensures that the draining operations are performed safely by developing and implementing a written procedure detailing how to safely drain the universal waste mercury-containing items. This procedure must include: the type of equipment to be used to drain universal waste mercury-containing items safely; operation and maintenance of the equipment; segregation of incompatible wastes; proper waste management practices; and waste characterization;

023.03C3 Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste mercury-containing item which might occur during the mercury draining operation;

023.03C4 Immediately transfers the drained elemental mercury to a container that meets the requirements of Title 128, Chapter 10, 004;

023.03C5 Ensures that the area in which the universal waste mercury-containing items are drained is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

023.03C6 Ensures that employees are thoroughly familiar with the procedure for draining universal waste mercury-containing items and proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

023.03C7 Stores the drained elemental mercury in a closed, non-leaking container that is in good condition; and

023.03C8 Maintains documentation of the date of accumulation, a description of the item drained, and the amount of elemental mercury drained.

023.03C9 Does not accumulate over 45 kilograms (almost 100 pounds) of elemental mercury at any one time.

023.03C10 A large quantity handler of universal waste who drains universal waste mercury-containing items, or who generates other solid waste as a result of draining the mercury-containing items, must determine whether the following exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3, 005 through 010:

023.03C10(a) Mercury or clean-up residues resulting from spills or leaks; and/or

023.03C10(b) Other solid waste generated as a result of the draining of elemental mercury (e.g., remaining mercury-containing item units and filters).

023.03C11 If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, they must be managed in accordance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the newly generated hazardous waste and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

023.03C12 If the mercury residues and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state, or local solid waste regulations.

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

023.04A A large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

023.04B A large quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

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

023.05A A large quantity handler of universal waste must contain any universal waste electronic item in containers that are structurally sound, adequate to prevent breakage, and compatible with the contents of the item. Such containers must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

023.05B A large quantity handler of universal waste must immediately clean up and place in a container any electronic item that is broken, and must place in a container any electronic device that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents to the environment. Containers must be structurally sound, compatible with the contents of the electronic item and must lack evidence of leakage, spillage or damage that could cause leakage or releases of hazardous constituents to the environment under reasonably foreseeable conditions.

023.05C A large quantity handler of universal waste may disassemble universal waste electronic items provided the handler:

023.05C1 Ensures that the universal waste electronic items are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;

023.05C2 Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each universal waste electronic item managed at the site. This procedure must include: the type of equipment to be used to disassemble the universal waste electronic items safely; operation and maintenance of all equipment; segregation of incompatible wastes; proper waste management practices; and waste characterization;

023.05C3 Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste electronic item which may occur during disassembly operations;

023.05C4 Immediately segregates and transfers the disassembled electronic items to containers that meet the requirements of 023.05A and 023.05B of this chapter;

023.05C5 Ensures that employees are thoroughly familiar with the procedures for disassembling universal waste electronic items, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

023.05C6 Maintains a system to ensure compliance with the written disassembling and management procedures;

023.05C7 A small quantity handler of universal waste who disassembles universal waste electronic items, or who generates other solid waste as a result of disassembling the electronic items, must determine whether the disassembled electronic item, its components and/or other solid wastes exhibit a characteristic of hazardous waste identified in Title 128, Chapter 3, 005 through 010, or are listed as a hazardous waste identified in Title 128, Chapter 3, 013 through 016.

023.05C8 If the disassembled universal waste electronic item or its components exhibit a characteristic of hazardous waste, they may continue to be managed as universal waste under this chapter. If the disassembled universal waste item or its components are not managed as universal waste under this chapter, then the handler is considered the generator of the newly generated hazardous waste and is subject to all applicable requirements of Title 128, Chapters 8, 9, and 10. The newly generated hazardous waste must be managed in accordance with all applicable requirements of Title 128, Chapters 1 through 24. If the disassembled universal waste electronic items or components become newly generated hazardous waste, the hazardous waste must be contained in containers that meet the requirements of Title 128, Chapter 10, 004;

023.05C9 If the disassembled universal waste electronic item, its components, and/or other solid waste are not hazardous, the handler must manage the waste in a way that is in compliance with applicable federal, state, and local solid waste regulations.

024 Labeling/marking. A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

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

024.02 A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Title 128, Chapter 25, 003.01A are contained must be labeled or marked clearly with:

024.02A The label that was on or accompanied the product as sold or distributed; and

024.02B The words "Universal Waste--Pesticide(s)" or "Waste--Pesticide(s);"

024.03 A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Title 128, Chapter 25, 003.01B are contained must be labeled or marked clearly with:

024.03A1 The label that was on the product when purchased, if still legible;

024.03A2 If using the labels described in 024.03A1 of this chapter is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

024.03A3 If using the labels described in 024.03A1 and 024.03A2 of this chapter is not feasible, another label prescribed or designated by the pesticide collection program; and

024.03B The words "Universal Waste--Pesticides(s)" or "Waste--Pesticide(s)."

024.04 Universal waste mercury-containing items, i.e., each mercury-containing item, or a container in which the mercury-containing items are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Mercury-containing Item(s),” or “Waste Mercury-containing Item(s),” or “Used Mercury-containing Item(s).”

024.05 Universal waste lamps, i.e., each lamp, or a container in which the lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste--Lamps," or "Waste Lamps," or "Used Lamps".

024.06 Universal waste electronic items. Each universal waste electronic item or a container in which universal waste electronic items are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Electronic Item(s),” or “Waste Electronic Item(s),” or “Used Electronic Item(s).” The name of the electronic item may be substituted for the words “Electronic Item(s)” (e.g., “Universal Waste – Monitor(s)” or “Waste Circuit Boards”).

025 Accumulation time limits.

025.01 A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of 025.02 of this chapter are met.

025.02 A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. A large quantity handler of universal waste must obtain written approval from NDEQ Waste Management Section prior to the one year accumulation time limit if the one year accumulation time limit is to be exceeded.

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

025.03A Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

025.03B Marking or labeling the individual item of universal waste (e.g., each battery, lamp, mercury-containing item, or electronic item) with the date it became a waste or was received;

025.03C Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

025.03D Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received.

025.03E Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

025.03F Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

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

027 Response to releases.

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

027.02 A large quantity handler of universal waste must determine whether any material resulting from the release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of Title 128, Chapters 1 through 24. The handler is considered the generator of the material resulting from the release, and is subject to the requirements of Title 128, Chapters 8, 9, and 10.

028 Off-site shipments.

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

028.02 If a large quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of 031 through 037 of this chapter while transporting the universal waste.

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

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

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

028.05A Receive the waste back when notified that the shipment has been rejected; or

028.05B Agree with the receiving handler on a destination facility to which the shipment will be sent.

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

028.06A Send the shipment back to the originating handler; or

028.06B If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

028.07 If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify NDEQ of the illegal shipment, and provide the name, address, and phone number of the originating shipper. NDEQ will provide instructions for managing the hazardous waste.

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

029 Tracking universal waste shipments.

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

029.01A The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

029.01B The quantity of each type of universal waste received (e.g., batteries, pesticides, lamps, mercury-containing items, electronic items);

029.01C The date of receipt of the shipment of universal waste.

029.02 Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may

take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

029.02A The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

029.02B The quantity of each type of universal waste sent (e.g., batteries, pesticides, lamps, mercury-containing items, electronic items);

029.02C The date the shipment of universal waste left the facility.

029.03 Records retention.

029.03A A large quantity handler of universal waste must retain the records described in 029.01 of this chapter for at least three years from the date of receipt of a shipment of universal waste.

029.03B A large quantity handler of universal waste must retain the records described in 029.02 of this chapter for at least three years from the date a shipment of universal waste left the facility.

030 Exports. A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H) must:

030.01 Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56 (a)(1) through (4), (6) and (b) and 262.57 as incorporated by reference in Title 128, Chapter 10, 006;

030.02 Export universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR 262 Subpart E as incorporated by reference in Title 128, Chapter 10, 006; and

030.03 Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

031 Universal Waste Transporters. Sections 032 through 037.02 of this chapter define standards for universal waste transporters.

032 Prohibitions. A universal waste transporter is:

032.01 Prohibited from disposing of universal waste; and

032.02 Prohibited from diluting or treating universal waste, except by responding to releases as provided in 035 of this chapter.

033 Waste management.

033.01 A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Uniform Hazardous Waste Manifest requirements of Title 128, Chapter 10, 002. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

033.02 Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under Title 128, Chapter 10, 002, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".

034 Storage time limits.

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

034.02 If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Sections 009 through 019 or 020 through 030 of this chapter while storing the universal waste.

035 Response to releases.

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

035.02 A universal waste transporter must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of Title 128, Chapters 1 through 24. If the waste is determined to be a hazardous waste, the transporter is subject to the requirements of Title 128, Chapters 8, 9, and 10.

036 Off-site shipments.

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

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

037 Exports. A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H) may not accept a shipment if

the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

037.01 A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

037.02 The shipment is delivered to the facility designated by the person initiating the shipment.

038 Universal Waste Destination Facilities. Sections 038.01 through 040.02 of this chapter define standards for universal waste destination facilities.

038.01 The owner or operator of a destination facility (as defined in 008 of this chapter) is subject to all applicable requirements of Title 128, Chapters 7, and 12 through 24, and the notification requirements of Title 128, Chapter 4.

038.02 The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with Title 128, Chapter 7, 006.

039 Off-site shipments.

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

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

039.02A Send the shipment back to the original shipper; or

039.02B If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

039.03 If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify NDEQ of the illegal shipment, and provide the name, address, and phone number of the shipper. NDEQ will provide instructions for managing the hazardous waste.

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

040 Tracking universal waste shipments.

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

040.01A The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

040.01B The quantity of each type of universal waste received (e.g., batteries, pesticides, lamps, mercury-containing items, electronic items); and

040.01C The date of receipt of the shipment of universal waste.

040.02 The owner or operator of a destination facility must retain the records described in 040.01 of this chapter for at least three years from the date of receipt of a shipment of universal waste.

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

041.01 A universal waste transporter is subject to the universal waste transporter requirements of Sections 031 through 037 of this chapter.

041.02 A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Sections 009 through or 020 through 030 of this chapter, as applicable.

041.03 An owner or operator of a destination facility is subject to the destination facility requirements of Sections 038 through 040.02 of this chapter.

041.04 Persons managing universal waste that is imported from an OECD country as specified in 40 CFR 262.58(a)(1) are subject to Sections 041.01 through 041.03 of this chapter, in addition to the requirements of 40 CFR part 262, subpart H.

042 Petitions. Petitions to include other wastes under Title 128, Chapter 25 may be submitted in accordance with Sections 042.01 through 043.08 of this chapter.

042.01 Any person seeking to add a hazardous waste or a category of hazardous waste to this chapter may petition for a regulatory amendment under this subpart and Title 128, Chapter 6, 001.

042.02 To be successful, the petitioner must demonstrate to the satisfaction of the Director that regulation under the universal waste regulations of Title 128, Chapter 25 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by Title 128, Chapter 6, 001.02. The petition should also address as many of the factors listed in Chapter 25, 043 as are appropriate for the waste or waste category addressed in the petition.

042.03 The Director will evaluate petitions using the factors listed in Chapter 25, 043. The Director will grant or deny a petition using the factors listed in Chapter 25, 043. The decision will be based on the weight of evidence showing that regulation under Title 128, Chapter 25 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

043 Factors for petitions to include other wastes under Title 128, Chapter 25.

043.01 The waste or category of waste, as generated by a wide variety of generators, is listed in Title 128, Chapter 3, 011 through 016, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Title 128, Chapter 3, 005 through 010. (When a characteristic waste is added to the universal waste regulations of Title 128, Chapter 25 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in Title 128, Chapter 25, 008 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of Title 128, Chapter 25;

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

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

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

043.05 The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Title 128, Chapter 25, 012, 023, and 033; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

043.06 Regulation of the waste or category of waste under Title 128, Chapter 25 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal solid waste stream, non-hazardous industrial or commercial solid waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA.

043.07 Regulation of the waste or category of waste under Title 128, Chapter 25 will improve implementation of and compliance with the hazardous waste regulatory program; and/or

043.08 Such other factors as may be appropriate.

Enabling Legislation: Neb. Rev. Stat. §81-1505(13)

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