



**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 25—Hazardous Waste
Management Commission
Chapter 16—Universal Waste**

10 CSR 25-16.273 Standards for Universal Waste Management

PURPOSE: This rule needs to be periodically updated to incorporate by reference the most current edition of the Code of Federal Regulations (CFR). Currently, the regulations incorporate by reference the 2004 CFR, which includes changes through July 1, 2004. One of the requirements to maintain the ability of the Missouri Department of Natural Resources to implement the Resource Conservation and Recovery Act in Missouri in lieu of EPA is that the state regulations must regularly be updated to include recent changes to the federal regulations. Updating the regulations to incorporate the 2006 CFR will ensure that the state regulations are current through the most recent edition of the CFR. This amendment would add to the state regulations changes made to the corresponding parts of the federal regulations between July 1, 2004, and July 1, 2006. Department staff have reviewed the changes made to 40 CFR part 263, the corresponding part of the CFR, during this time period and recommend that this rule be amended to incorporate by reference these changes. The amendment will update the state regulations to be consistent with the most recent edition of the Code of Federal Regulations.

(1) The regulations set forth in 40 CFR part 273, July 1, [2004]2006 as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Small and large quantity handlers of universal waste, universal waste transporters, universal waste collection programs and owners/operators of a universal waste destination facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 273 incorporated in this rule. (Comment: This section has been organized such that Missouri additions or changes to a particular federal subpart are noted in the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 273 subpart A are found in subsection (2)(A) of this rule.)

(A) General. In addition to the requirements in 40 CFR part 273 subpart A, the following regulations also apply:

1. Scope.

A. [In addition to the requirements in 40 CFR 273.1(a), incorporated into this rule, this part establishes requirements for mercury switches as described in subparagraph (2)(A)4.A. of this rule, and mercury-containing thermometers and manometers as described in subparagraph (2)(A)4.B. of this rule.

B.] This rule does not apply to an owner/operator for that portion of or process at the facility which is in compliance with all requirements for the universal waste in question and of an R2 Missouri-certified resource recovery facility recycling universal waste as described in 10 CSR 25-9.020(3)(A)3.;

2. Applicability—batteries.

A. The additional state specific requirements described in this rule do not apply to batteries as described in 40 CFR 273.2;

3. Applicability—pesticides.

A. 40 CFR 273.3(a)(2) is modified as follows: Stocks of other unused pesticide products that are collected and managed as part of a universal waste pesticide collection program, as defined in paragraph (2)(A)9. of this rule.

(I) 40 CFR 273.3(c) is not incorporated in this rule, and this subparagraph describes when pesticides become wastes:

(a) A pesticide becomes a waste on the date the generator of a recalled pesticide agrees to participate in the recall;

(b) A pesticide becomes a waste on the date the person conducting a recall decides to discard the pesticide; and

(c) An unused pesticide product as described in 40 CFR 273.3(a)(2) becomes a waste on the date the generator permanently removes it from service.

B. The words “or reclamation” in 40 CFR 273.3(d)(1)(ii) are not incorporated in this rule;

4. **(Reserved)** [*Applicability—mercury switches, mercury-containing thermometers and manometers.*

A. *Mercury switches.*

(I) *The requirements of this rule apply to persons managing mercury switches, defined as a device used to open, close or divert an electrical circuit that contains metallic mercury in an ampule and mercury-containing ampules that have been removed from these devices, except those listed in part A.(II) of this paragraph.*

(II) *The requirements of this rule do not apply to persons managing the following mercury switches:*

(a) *Mercury switches that are not yet wastes under 10 CSR 25-4.261. Part A.(III) of this paragraph describes when mercury switches become wastes;*

(b) *Mercury switches that are not hazardous waste. A mercury switch is a hazardous waste if it exhibits one (1) or more of the characteristics identified in 10 CSR 25-4.261.*

(III) *Generation of waste mercury switches.*

(a) *A used mercury switch becomes a waste on the date it is discarded or permanently removed from service.*

(b) *An unused mercury switch becomes a waste on the date the handler discards it or permanently removes it from service;*

B. *Mercury-containing thermometers and manometers.*

(I) *The requirements of this rule apply to persons managing mercury-containing thermometers and manometers, defined as instruments used to measure temperature or pressure that contain metallic mercury in glass tubes with sealed, capillary bores and the mercury-containing tubes that have been removed from these devices, except those listed in part B.(II) of this paragraph.*

(II) *The requirements of this rule do not apply to persons managing the following mercury-containing thermometers and manometers:*

(a) *Mercury-containing thermometers and manometers that are not yet wastes under 10 CSR 25-4.261. Part B.(III) of this paragraph describes when mercury-containing thermometers and manometers become wastes;*

(b) *Mercury-containing thermometers and manometers that are not hazardous waste. A mercury-containing thermometer and manometer is a hazardous waste if it exhibits one (1) or more of the characteristics identified in 10 CSR 25-4.261.*

(III) *Generation of waste mercury-containing thermometers and manometers.*

(a) *A used mercury-containing thermometer or manometer becomes waste on the date it is discarded or permanently removed from service.*

(b) *An unused mercury-containing thermometer or manometer becomes a waste on the date the handler discards it or permanently removes it from service;]*

5. *(Reserved)*

6. *(Reserved)*

7. *(Reserved)*

8. Applicability—household and conditionally exempt small quantity generator waste.

A. In addition to the requirements of 40 CFR 273.8(a)(1) incorporated in this rule, household hazardous wastes which are of the same type as universal wastes defined at 40 CFR 273.9 as amended by (2)(A)9. of this rule, and which are segregated from the solid waste stream must either be managed in compliance with this rule or 10 CSR 25-4.261(2)(A)/9/10.;

9. Definitions.

A. Universal waste—In lieu of the definition of “Universal waste” in 40 CFR 273.9, the following definition shall apply: “Universal waste” means batteries as described in 40 CFR 273.2, pesticides as described in 40 CFR 273.3 as modified by paragraph (2)(A)3. of this rule, mercury-**containing equipment** [*switches*] as described in [*subparagraph*] **40 CFR 273.4 [(2)(A)4.A. of this rule, thermostats as described in 40 CFR 273.4, as incorporated in this rule, mercury-containing thermometers and manometers as described in subparagraph (2)(A)4.B. of this rule.], and lamps as described in 40 CFR 273.5**

B. Universal Waste Pesticide Collection Program—a Missouri universal waste pesticide collection program is any site where stocks of unused pesticide products are collected and managed. The collection program may accept unused pesticide products from both small and large quantity handlers of universal waste pesticides, universal waste transporters and other universal waste pesticide collection programs. The collection program must operate in compliance with the Department of Natural Resources’ Standard Procedures for Pesticide Collection Programs in Missouri and submit a Letter of Intent to the director of the Hazardous Waste Program at least fourteen (14) days prior to accepting unused pesticide products. The Letter of Intent shall contain all of the following:

(I) The name of the organization/agency sponsoring the collection program;

(II) Name, telephone number and address of a contact person responsible for operating the collection program;

(III) Location of the collection program;

(IV) Date and time of the collection.

(B) Standards for Small Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart B, the following regulations also apply except that additional state specific requirements do not apply to batteries as described in 40 CFR 273.2, as incorporated in this rule:

1. In addition to the requirements of 40 CFR 273.11, a small quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving small quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. [*The requirements of 40 CFR 273.13(c) for small quantity handlers of universal waste thermostats, as incorporated in this rule, shall also apply to small quantity handlers of universal waste mercury switches and universal waste mercury-containing thermometers and manometers. Throughout 40 CFR 273.13(c), as incorporated in this rule, the word “thermostat” or “thermostats” shall be replaced with the phrase “thermostat, mercury switch, or thermometers and manometers,” as appropriate;*

3. *In addition to the requirements of 40 CFR 273.14, as incorporated in this rule, universal waste mercury switches (i.e., each switch, or a container in which the switches are contained) must be labeled or marked clearly with any one (1) of the follow-*

ing phrases: “Universal Waste—Mercury Switch(es),” or “Waste Mercury Switch(es),” or “Used Mercury Switch(es)”;

4. *In addition to the requirements of 40 CFR 273.14, as incorporated in this rule, universal waste thermometers or manometers (i.e., each item, or a container in which the items are contained) must be labeled or marked clearly with any one (1) of the following phrases as is applicable to the waste: “Universal Waste—Mercury-Containing Thermometer(s) or Manometer(s),” or “Waste Mercury-Containing Thermometer(s) or Manometer(s),” or “Used Mercury-Containing Thermometer(s) or Manometer(s)”;*

5]. The phrase “or received from another handler” in 40 CFR 273.15(a) in regards to universal waste pesticides is not incorporated in this rule;

3[6]. In 40 CFR 273.18(a), with respect to universal waste pesticides, remove the phrase “another universal waste handler” and replace it with “a Missouri-certified resource recovery facility, a universal waste pesticide collection program”;

4[7]. In addition to the requirements of 40 CFR 273.18(a) through (c) as modified in paragraphs (2)(B)5. through (2)(B)7. and incorporated in this rule, in regards to universal waste pesticides, if a shipment of universal waste pesticides is rejected by the Missouri-certified resource recovery facility or destination facility, the originating handler must either:

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

B. Send the pesticides to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

5[8]. 40 CFR 273.18(d) through (g) is not incorporated in this rule in regards to universal waste pesticides;

6[9]. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.20, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(C) Standards for Large Quantity Handlers of Universal Wastes. In addition to the requirements in 40 CFR part 273 subpart C, the following regulations also apply:

1. In addition to the requirements of 40 CFR 273.31, a large quantity handler of universal waste is prohibited from accepting universal waste pesticides from other universal waste pesticide handlers unless the receiving large quantity handler operates a universal waste pesticide collection program as defined in paragraph (2)(A)9. of this rule;

2. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in 40 CFR 273.3(a)(1) as modified by 10 CSR 25-16.273(2)(A)3. and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify EPA for those recalled universal waste pesticides under this section;

3. *[The requirements of 40 CFR 273.33(c) for large quantity handlers of universal waste thermostats, as incorporated in this rule, shall also apply to large quantity handlers of universal waste mercury switches and mercury-containing thermometers and manometers. Throughout 40 CFR 273.33(c), as incorporated in this rule, the word “thermostat” or “thermostats” shall be replaced with the phrase “thermostat, mercury switch, thermometer and manometer,” or “thermostats, mercury switches, thermometers and manometers,” as appropriate;*

4.] In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste *[thermostats, mercury switches, thermometers, manometers and mercury-containing lamps]* **mercury-containing equipment** in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury contaminated residue resulting from breakage, spills or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated;

4. In addition to the requirements in 40 CFR 273.33, a large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or components of universal waste to the environment, as follows:

A. Ensure that a mercury clean-up system is readily available to immediately transfer any mercury contaminated residue resulting from breakage, spills or leaks into a container that meets the requirements of 40 CFR 262.34;

B. Ensure that the area in which containers are stored is ventilated;

C.- Ensure that employees handling universal waste lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of spillage or released material into appropriate containers;

[5. In addition to the requirements of 40 CFR 273.34, as incorporated in this rule, universal waste mercury switches (i.e., each switch, or a container in which the switches are contained) must be labeled or marked clearly with any one (1) of the following phrases: “Universal Waste—Mercury Switch(es),” or “Waste Mercury Switch(es),” or “Used Mercury Switch(es)”;

6. In addition to the requirements of 40 CFR 273.34, as incorporated in this rule, universal waste thermometers and manometers (i.e., each item, or a container in which the items are contained) must be labeled or marked clearly with any one (1) of the following phrases as is applicable to the waste: “Universal Waste—Mercury-Containing Thermometer(s) or Manometer(s), or “Waste Mercury-Containing Thermometer(s) or Mano-meter(s),” or “Used Mercury-Containing Thermometer(s) or Manometer(s)”;

5[7]. In 40 CFR 273.35(a) and (b), the phrases “or received from another handler” are not incorporated in this rule in regards to universal waste pesticides;

6[8]. In 40 CFR 273.35(c)(1) through (c)(6), the phrases “or is received” and “or was received” are not incorporated in this rule in regards to universal waste pesticides;

7[9]. In 40 CFR 273.38(a), with respect to pesticide, remove the phrase “another universal waste handler” and replace it with “a Missouri-certified resource recovery facility, a universal waste pesticide collection program”;

8[10]. In addition to the requirements of 40 CFR 273.38(a) through (c) incorporated by reference and modified by this section, if a shipment of universal waste pesticides from a large quantity generator is rejected by the Missouri-certified resource recovery facility or destination facility, the original handler must either:

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

B. Send the waste to another Missouri-certified resource recovery facility or to a destination facility which agrees to take the waste;

9[11]. 40 CFR 273.38(d) through (f) is not incorporated in this rule with regards to universal waste pesticides;

10[12]. 40 CFR 273.39(c)(1) is not incorporated in this rule in regards to universal waste pesticides;

11[13]. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 273.40, as incorporated in this rule. The state may not assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies.

(D) Standards for Universal Waste Transporters.

1. In addition to the requirements set forth in 40 CFR part 273, subpart D, universal waste transporters shall—

A. Comply with all provisions of 10 CSR 25-6.263 if hazardous waste, as defined at 10 CSR 25-4.261 and not managed under the provisions of this rule, is transported in the state of Missouri;

B. Comply with the provisions of 10 CSR 25-6.263(2)(C) following a discharge of universal waste.

2. In addition to the prohibitions in 40 CFR 273.51(a) and (b), a transporter of universal waste pesticides is prohibited from delivering this waste to another universal waste handler except by delivery back to the original handler upon rejection of shipment by the Missouri-certified resource recovery facility or destination facility.

3. In 40 CFR 273.51(a) add the phrase “into the environment” after the phrase “prohibited from disposing of universal waste.”

(E) Standards for Destination Facilities. In addition to the requirements in 40 CFR part 273 subpart E, the following regulations also apply:

1. A universal waste destination facility that is also a permitted or interim status hazardous waste storage, treatment or disposal facility must manage all universal wastes in an area which is separate from the permitted area or the waste loses its identity as universal waste and must be managed in compliance with the facility's permit or interim status;

2. A universal waste destination facility may be a Missouri-certified resource recovery facility if operating in compliance with the requirements for the universal waste in question and the standards of an R2 resource recovery facility as described in 10 CSR 25-9.020(3)(A)3.

(F) *(Reserved)*

(G) In addition to the requirements in 40 CFR 273.80 subpart G, any person seeking to add a hazardous waste or a category of hazardous waste to this rule shall:

1. Comply with those provisions of section 536.041, RSMo that describe a petition process to adopt, amend or repeal any rule.

PUBLIC ENTITY COST: This proposed amendment will not cost public entities more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on October 18, 2007 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any person wishing to speak at the hearing shall send a written request to the Secretary of the Hazardous Waste Management Commission at P.O. Box 176, Jefferson City, Missouri, 65102-0176. To be accepted, written requests to speak must be postmarked by midnight on October 4, 2007. Faxed or e-mailed correspondence will not be accepted.

Any person may submit written comments on this rule action. Written comments shall be sent to the Director of the Hazardous Waste Program at P.O. Box 176, Jefferson City, Missouri, 65102-0176. To be accepted, written comments must be postmarked by midnight on October 26, 2007. Faxed or e-mailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

AUTHORITY: section 260.370, RSMo Supp. 2005