

## ***Subchapter 9: UNIVERSAL WASTE MANAGEMENT STANDARDS***

### **7-901 PURPOSE, SCOPE AND APPLICABILITY**

This subchapter establishes alternative management standards for certain batteries, pesticides, thermostats, fluorescent light ballasts and mercury-containing lamps that would otherwise have to be managed as hazardous waste. As allowed by **Section 7-203(s)**, these “universal” hazardous wastes can be managed under the streamlined provisions of this subchapter in lieu of the hazardous waste management requirements set forth under **Subchapters 1 through 7**. Specifically, this subchapter establishes standards for small and large quantity handlers, universal waste transporters, and destination facilities; it also provides a petition mechanism for amending these regulations to add a hazardous waste to the category of universal wastes.

### **7-902 APPLICABILITY TO BATTERIES**

With the exception of spent lead-acid batteries exempted under **Section 7-204(f)** of these regulations, persons managing batteries, as defined in **Section 7-911**, that are hazardous waste (due to exhibiting one or more of the hazardous waste characteristics identified by **Sections 7-205 through 7-208**), including spent lead acid batteries that are not managed according to the provisions of **Section 7-204(f)**, may comply with the requirements of **40 CFR Part 273** in lieu of managing those batteries as hazardous wastes under Subchapters 1 through 7 of these regulations.

### **7-903 APPLICABILITY TO PESTICIDES**

- (a) With the exception of the pesticides listed in **subsection (b)**, the requirements of this subchapter apply to persons managing pesticides, as defined in **Section 7-911**, that are hazardous waste, and that meet one or more of the following conditions:
- (1) Recalled pesticides that are 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.
  - (2) Recalled pesticides that are 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.
  - (3) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
- (b) The requirements of this subchapter do not apply to persons managing the following pesticides:

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- (1) Pesticides described in **subsection (a)** that are managed by farmers in compliance with **Section 7-203(r)** of these regulations.
  - (2) Pesticides not meeting one or more of the conditions of **subsection (a)**. These pesticides must be managed in compliance with the hazardous waste regulations set forth under **Subchapters 1 through 7**.
  - (3) Pesticides that do not meet the criteria for waste generation in **subsection (c)**.
- (c) Generation of waste pesticides
- (1) A recalled pesticide described in **subsections (a)(1) and (2)** of this Section becomes a waste on the first date on which both the generator of the recalled pesticide agrees to participate in the recall, and the person conducting the recall decides to discard the pesticide (e.g., burn the pesticide for energy recovery).

**Note:** A recalled pesticide is not waste if the person conducting the recall has made a decision to use a management option that causes the pesticide to be exempt from regulation under **Section 7-204(a)**. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA.

- (2) An unused pesticide product described in **paragraph (a)(3)** of this Section becomes a waste on the date the generator decides to discard it.

### **7-904** APPLICABILITY TO MERCURY THERMOSTATS

- (a) The requirements of this subchapter apply to persons managing thermostats, as defined in **Section 7-911**, that are hazardous waste (due to exhibiting one or more of the hazardous waste characteristics identified by **Sections 7-205 through 7-208**).
- (b) Both used and unused thermostats become waste on the date the handler decides to discard them.

### **7-905** APPLICABILITY TO FLUORESCENT LIGHT BALLASTS

- (a) The requirements of this subchapter apply to persons managing intact and non-leaking fluorescent light ballasts with small capacitors that contain PCBs (the terms “fluorescent light ballast”, “PCB”, and “small capacitor” are defined in **Section 7-911**), and that are hazardous waste due to meeting the criteria of only the VT01 hazardous waste number

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identified in **Section 7-211** of these regulations.

- (b) Both used and unused fluorescent light ballasts become waste on the date the handler decides to discard them.

**Note:** Various PCB-containing devices (including leaking waste fluorescent light ballasts of any size) and the disposal of the potting material in ballasts with a concentration of PCBs over 50 ppm are subject to federal regulation under TSCA (**40 CFR Part 761**).

### **7-906** APPLICABILITY TO MERCURY-CONTAINING LAMPS

- (a) The requirements of this subchapter apply to persons managing mercury-containing lamps, as defined in **Section 7-911**, that are hazardous waste (due to exhibiting one or more of the hazardous waste characteristics identified by **Sections 7-205 through 7-208**).
- (b) Both used and unused mercury-containing lamps become waste on the date the handler decides to discard them.

SECTIONS **7-907** THROUGH **7-909** ARE RESERVED

### **7-910** HOUSEHOLD AND CONDITIONALLY EXEMPT GENERATOR WASTE

- (a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this subchapter:
  - (1) Household wastes that are exempt under **Section 7-203(a)** and are also of the same type as the universal wastes described by **Sections 7-902 through 7-906**; and/or
  - (2) Conditionally exempt generator wastes of the same type as the universal wastes described by **Sections 7-902 through 7-906** (as allowed under **Section 7-306(c)(2)(F)**).
- (b) Persons who commingle the wastes described in **subsections (a)(1) and (2)** of this Section together with universal waste regulated under this subchapter must manage the commingled waste under the requirements of this subchapter.

### **7-911** DEFINITIONS

Terms defined in **Section 7-103** of these regulations or in 40 CFR Parts 260 through 270 have the

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same meaning when used in this subchapter.

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

**"Destination facility"** means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in **subsections 7-912(d)(3)**. 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.

**"Electric lamp"** means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra-red (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.

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

**"Fluorescent light ballast"** means a device that electrically controls fluorescent light fixtures (i.e., provides starting voltage and stabilizes electrical current) and that includes a capacitor containing 0.1 kg or less of dielectric material.

**"Large quantity handler"** means a universal waste handler (as defined in this Section) who accumulates 5,000 kilograms (11,000 pounds) or more total of universal waste (batteries, pesticides, thermostats, ballasts, or lamps, calculated collectively) at any time. This designation as a large quantity handler is retained through the end of the calendar year in which 5,000 kilograms (11,000 pounds) or more total of universal waste is accumulated.

**"Mercury-containing lamp"** means an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp.

**"PCB"** or **"polychlorinated biphenyl"** means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance.

**"Pesticide"** means an "economic poison" as defined under **6 V.S.A § 911, 10 V.S.A § 6602, and Section 7-103** of these regulations. The term pesticide does not include substances that are new animal drugs in accordance with Section 201 of the Food, Drug and Cosmetic Act (FFDCA) or animal drugs regulated by the Secretary of Health and Human Services.

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"**Small quantity handler**" means a universal waste handler (as defined in this Section) who does not accumulate 5,000 kilograms (11,000 pounds) or more total of universal waste (batteries, pesticides, thermostats, ballasts, or lamps, calculated collectively) at any time.

"**Thermostat**" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of **Section 7-912(d)(3)(B)**.

"**TSCA**" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

"**Universal waste**" means any of the following hazardous wastes that are subject to the universal waste requirements of this subchapter:

- (a) Batteries as described in **Section 7-902**;
- (b) Pesticides as described in **Section 7-903**;
- (c) Thermostats as described in **Section 7-904**;
- (d) Fluorescent light ballasts as described in **Section 7-905**; and
- (e) Mercury-containing lamps as described in **Section 7-906**.

"**Universal waste handler**":

- (a) Means:
  - (1) A generator (as defined in **Section 7-103**) of universal waste; or
  - (2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
- (b) Does not mean:
  - (1) A person who treats (except under the provisions of **subsections 7-912(d)(3)**), disposes of, or recycles universal waste; or

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

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

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

### **7-912** STANDARDS FOR SMALL AND LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

#### (a) Applicability

This Section applies to small and large quantity handlers of universal waste as defined above.

#### (b) Prohibitions

Small and large quantity handlers of universal waste are:

- (1) Prohibited from disposing of universal waste; and
- (2) Prohibited from diluting or treating universal waste, except by responding to releases as provided in **Section 7-912(h)**; or by managing specific wastes as provided in **Section 7-912(d)**.

#### (c) Notification

- (1) A small quantity handler is not required to notify the Secretary of universal waste handling activities.
- (2) A large quantity handler must notify the Secretary as follows:
  - (A) Except as provided in **subsection (B)** of this Section, a large quantity handler must have sent written notification of universal waste management to the Secretary, and received an EPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
  - (B) A large quantity handler who manages recalled universal waste pesticides as described in **subsections 7-903(a)(1) and (2)** and who has sent notification to

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EPA as required by **40 CFR part 165** is not required to notify for those recalled universal waste pesticides under this Section.

**Note:** A large quantity handler of universal waste who has already notified EPA of his or her hazardous waste management activities and has received an EPA Identification Number is not required to renotify under this Section.

- (3) A notification submitted by a large quantity handler must include:
- (A) The large quantity handler's name and mailing address;
  - (B) The name and business telephone number of the person at the large quantity handler's site who should be contacted regarding universal waste management activities;
  - (C) The address or physical location of the universal waste management activities;
  - (D) A list of all of the types of universal waste managed by the large quantity handler;
  - (E) A statement indicating that the large quantity handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste the handler is accumulating above this quantity.

**Note:** The Notification of Regulated Waste Activity Form specified under **Section 7-104** may be used to provide notification of universal waste management to the Secretary.

(d) Waste Management

- (1) [Reserved]
- (2) Universal Waste Pesticides

Both small and large quantity handlers 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:

- (A) 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
- (B) A container that does not meet the requirements of **subsection (2)(A)** of this

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Section, provided that the unacceptable container is overpacked in a container that does meet the **subsection (2)(A)** requirements; or

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

### (3) Universal Waste Thermostats

Both small and large quantity handlers must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (A) Small and large quantity handlers must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- (B) A small or large quantity handler may remove mercury-containing ampules from universal waste thermostats, provided the handler:
  - (i) Removes the ampules in a manner designed to prevent breakage of the ampules;
  - (ii) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
  - (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container in accordance with the applicable requirements of **Subchapter 3**;
  - (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container in accordance with the applicable requirements of **Subchapter 3**;
  - (v) Ensures that the area in which ampules are removed is well ventilated and

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monitored to ensure compliance with applicable OSHA exposure levels for mercury;

- (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - (vii) Stores removed ampules in closed, non-leaking containers that are in good condition; and
  - (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- (C) A small or large quantity handler who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic of hazardous waste identified in **Sections 7-205 through 7-208** of these regulations:
- (i) Mercury or clean-up residues resulting from spills or leaks; and/or
  - (ii) Other waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
- (D) Any mercury, residue, and/or other waste listed in **subsection (C)** that exhibits a characteristic of hazardous waste must be managed in compliance with all applicable requirements of **Subchapters 1 through 7** of these regulations. The handler is considered the generator of the mercury, residues, and/or other waste and must comply with the applicable requirements of **Subchapter 3**.

(4) Universal Waste Fluorescent Light Ballasts

Both small and large quantity handlers must manage universal waste fluorescent light ballasts in a way that prevents releases of any universal waste or component of a universal waste to the environment. Small and large quantity handlers must:

- (A) Immediately contain and transfer any universal waste fluorescent light ballasts that show evidence of leakage or damage to a container that meets the requirements of **Section 7-311(f)(2) through (4)**.

**Note:** Fluorescent light ballasts which contain PCBs and that are not intact or that

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are leaking are subject to regulation under TSCA (i.e., **40 CFR Part 761**).

(5) Universal Waste Mercury-Containing Lamps

(A) Both small and large quantity handlers must manage universal waste mercury-containing lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment. Small and large quantity handlers must:

(i) Place universal waste mercury-containing lamps in packaging functionally equivalent to that used for transportation of new, unused lamps.

(ii) Store packages of waste mercury-containing lamps in a designated storage area that is identified with a sign that is visible from at least 25 feet and that has a legend that includes the words: "Waste Mercury-Containing Lamps".

(iii) Seal full packages with tape.

(iv) Stack packages of lamps no higher than five (5) feet.

(v) Immediately contain and transfer any universal waste mercury-containing lamps that show evidence of damage, and all residue and other waste from broken lamps to a container that meets the requirements of **Section 7-311(f)(2) through (4)**.

(B) A small or large quantity handler must determine whether residue and/or other waste from broken lamps collected pursuant to **subsection (5)(A)(v)** above, exhibits a characteristic of hazardous waste identified in **Sections 7-205 through 7-208** of these regulations.

(C) Any residue and/or other waste that exhibits a characteristic of hazardous waste must be managed in compliance with all applicable requirements of **Subchapters 1 through 7** of these regulations. The handler is considered the generator of the residues, and/or other waste and must comply with the applicable requirements of **Subchapter 3**.

(e) Labeling and marking.

Small and large quantity handlers must label and mark universal waste to identify its type as specified below:

(1) [Reserved]

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- (2) A container, (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in **subsections 7-903(a)(1) and (2)** are contained must be labeled and marked clearly with:
    - (A) The label that was on or accompanied the product as sold or distributed; and
    - (B) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"
  - (3) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in **subsection 7-903(a)(3)** are contained must be labeled and marked clearly with:
    - (A) A label as follows:
      - (i) The label that was on the product when purchased, if still legible;
      - (ii) If using the labels described in **subsection (i)** is not feasible, the appropriate label as required under the Department of Transportation regulation **49 CFR part 172**;
      - (iii) If using the labels described in **subsections (i) and (ii)** is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and
    - (B) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."
  - (4) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)".
  - (5) Universal waste fluorescent light ballasts (i.e., each ballast), or a container in which the ballasts are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-PCB Ballast(s)," or "Waste PCB Ballast(s)," or "Used PCB Ballast(s)".
  - (6) Containers in which universal waste mercury-containing lamps are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury-Containing Lamp(s)," or "Waste Mercury-Containing Lamp(s)," or "Used Mercury-Containing Lamp(s)".
- (f) Accumulation Time Limits

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- (1) A small or large quantity handler may not accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of **subsection (2)**, below, are met.
- (2) A small or large quantity handler 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.
- (3) A small or large quantity handler 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:
  - (A) 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;
  - (B) Marking or labeling each individual item of universal waste (e.g., each thermostat, ballast or lamp) with the date it became a waste or was received;
  - (C) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
  - (D) 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;
  - (E) 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
  - (F) 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.

### (g) Employee Training

Both small and large quantity handlers 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.

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(h) Response to Releases

- (1) Both small and large quantity handlers must respond to and manage a discharge or release of a universal waste in accordance with the requirements and procedures of **Section 7-105** of these regulations.
- (2) Both small and large quantity handlers must determine whether any material resulting from the discharge or release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of **Subchapters 1 through 7** of these regulations. The handler is considered the generator of the material resulting from the discharge or release, and must comply with the applicable requirements of **Subchapter 3**.

(i) Off-Site Shipments

- (1) Both small and large quantity handlers of universal waste are prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- (2) If a small or large quantity handler self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of **Section 7-913** while transporting the universal waste.
- (3) If a universal waste being offered for off-site transportation meets the definition of a hazardous material under **49 CFR parts 171 through 180**, the small or large quantity handler 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**;
- (4) 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.
- (5) If a small or large quantity handler 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:
  - (A) Receive the waste back when notified that the shipment has been rejected, or
  - (B) Agree with the receiving handler on a destination facility to which the shipment will be sent.

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- (6) Small and large quantity handlers may reject a shipment containing universal waste, or a portion of a shipment containing universal waste received from another handler. If a handler rejects a shipment or a portion of a shipment, the handler must contact the originating handler to provide notification of the rejection and to discuss reshipment of the load. The handler must:
    - (A) Send the shipment back to the originating handler, or
    - (B) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
  - (7) If a small or large quantity handler receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Secretary of that shipment, and provide the name, address, and phone number of the originating shipper.
- (j) Tracking Universal Waste Shipments
- (1) A small quantity handler is not required to keep records of shipments of universal waste.
  - (2) A large quantity handler is subject to the following tracking requirements:
    - (A) Receipt of shipments

A large quantity handler 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:

      - (i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
      - (ii) The quantity of each type of universal waste received;
      - (iii) The date of receipt of the shipment of universal waste.
    - (B) Shipments off-site

A large quantity handler 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:

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- (i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
- (ii) The quantity of each type of universal waste sent;
- (iii) The date the shipment of universal waste left the facility.

### (C) Record retention

- (i) A large quantity handler must retain the records described in **subsection (2)(A)** for at least three years from the date of receipt of a shipment of universal waste.
- (ii) A large quantity handler must retain the records described in **subsection (2)(B)** for at least three years from the date a shipment of universal waste left the facility.

### (k) Exports

Both small and large quantity handlers who send universal waste to a foreign destination must:

- (1) Comply with the requirements applicable to a primary exporter in **Sections 7-705(b)(1) through (6), 7-710(d) and (e), and 40 CFR 262.56(a)(1) through (4), (6), and (b)**;
- (2) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in **Section 7-103**; and
- (3) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

## **7-913** STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

### (a) Applicability

This Section applies to universal waste transporters (as defined in **Section 7-911**).

### (b) Prohibitions

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A universal waste transporter is:

- (1) Prohibited from disposing of universal waste; and
- (2) Prohibited from diluting or treating universal waste, except by responding to releases as provided in **Section 7-913(e)**.

### (c) Waste Management

- (1) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in **49 CFR part 171 through 180** for transport of any universal waste that meets the definition of hazardous material in **49 CFR 171.8**. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in **40 CFR part 262**. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.
- (2) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in **49 CFR 173.2**. As universal waste shipments do not require a manifest under **40 CFR 262**, they may not be described by the DOT proper shipping name "hazardous waste, (1) or (s), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".
- (3) Universal waste transporters are subject to the permit requirements of **10 V.S.A. Section 6607a**.

### (d) Storage Time Limits

- (1) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.
- (2) 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 **Section 7-912** of this subchapter while storing the universal waste.

### (e) Response to Releases

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

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- (2) 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 **Subchapters 1 through 7** of these regulations. If the waste is determined to be a hazardous waste, the transporter must manage such waste in accordance with the applicable generator requirements of **Subchapter 3**.
- (f) Off-site shipments
- (1) A universal waste transporter is prohibited from transporting universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.
  - (2) If the universal waste being shipped off-site meets the Department of Transportation's definition of a hazardous material 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**.
- (g) Exports

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

- (1) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and
- (2) The shipment is delivered to the facility designated by the person initiating the shipment.

### **7-914** STANDARDS FOR DESTINATION FACILITIES

- (a) Applicability
- (1) The owner or operator of a destination facility (**as defined in Section 7-911**) is subject to all applicable requirements of **Subchapters 1, 2, 3, 5, 6 and 7 of these regulations**.
  - (2) 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 the applicable requirements of **Subchapter 6** of these regulations.
- (b) Off-site shipments.

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- (1) 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 a foreign destination.
  - (2) 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, the owner must contact the shipper to provide notification of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:
    - (A) Send the shipment back to the original shipper, or
    - (B) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
  - (3) 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 the Secretary of that shipment, and provide the name, address, and phone number of the shipper.
- (c) Tracking Universal Waste Shipments
- (1) 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:
    - (A) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
    - (B) The quantity of each type of universal waste received; and
    - (C) The date of receipt of the shipment of universal waste.
  - (2) The owner or operator of a destination facility must retain the records described in **subsection (1)**, above, for at least three years from the date of receipt of a shipment of universal waste.

### 7-915 IMPORT REQUIREMENTS

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

United States, as indicated below:

- (a) A universal waste transporter is subject to the universal waste transporter requirements of **Section 7-913**.
- (b) A universal waste handler is subject to the small or large quantity handler requirements of **Section 7-912**, as applicable.
- (c) An owner or operator of a destination facility is subject to the destination facility requirements of **Section 7-914**.

#### **7-916** PETITIONS TO INCLUDE OTHER WASTES AS UNIVERSAL WASTES UNDER THIS SUBCHAPTER

- (a) General
  - (1) Any person seeking to add a hazardous waste or a category of hazardous waste to this subchapter may petition the Secretary for a regulatory amendment under this Section.
  - (2) To be successful, the petitioner must demonstrate to the satisfaction of the Secretary that regulation of the waste or category of waste under the provisions of this subchapter 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 address as many of the factors listed in **Section 7-916(b)** as are appropriate for the waste or waste category addressed in the petition.
  - (3) The Secretary will evaluate petitions using the factors listed in **Section 7-916(b)**. The decision of whether or not to amend this subchapter will be based on the weight of evidence showing that regulation under this subchapter 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.
- (b) Factors for Petitions to Include Other Wastes as Universal Wastes
  - (1) The waste or category of waste, as generated by a wide variety of generators, is listed in **Sections 7-210 through 7-215 of these regulations**, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in **Sections 7-205 through 7-208 of these regulations**. (When a characteristic waste is added to the universal waste regulations of this subchapter by using a generic name

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- to identify the waste category, the definition of universal waste in **Sections 7-103 and 7-911** will be amended to include only the hazardous waste portion of the waste category.) 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 this subchapter;
- (2) The waste or category of waste is not exclusive to a specific industry or group of industries, and is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt generators, small businesses, government organizations, as well as large industrial facilities);
  - (3) 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;
  - (4) 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;
  - (5) 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 **Section 7-912(d), and Section 7-913(c)**; and/or applicable U.S. Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;
  - (6) Regulation of the waste or category of waste under this subchapter will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with **Subchapters 1 through 7 of these regulations**.
  - (7) Regulation of the waste or category of waste under this subchapter will improve implementation of and compliance with the hazardous waste regulatory program; and/or
  - (8) Such other factors as may be appropriate.