

§ 273.4

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(3) Pesticides that are not wastes under part 261 of this chapter, including those that do not meet the criteria for waste generation in paragraph (c) of this section or those that are not wastes as described in paragraph (d) of this section; and

(4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in 40 CFR part 261, subpart D or if it exhibits one or more of the characteristics identified in 40 CFR part 261, subpart C.

(c) *When a pesticide becomes a waste.*

(1) A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

(i) The generator of the recalled pesticide agrees to participate in the recall; and

(ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

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

(d) *Pesticides that are not wastes.* The following pesticides are not wastes:

(1) Recalled pesticides described in paragraph (a)(1) of this section, provided that the person conducting the recall:

(i) Has not made a decision to discard (e.g., burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of “solid waste” under 40 CFR 261.2; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this part 273. This pesticide remains subject to the requirements of FIFRA; or

(ii) Has made a decision to use a management option that, under 40 CFR 261.2, 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 this part 273. 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) Unused pesticide products described in paragraph (a)(2) of this section, if the generator of the unused pesticide product has not decided to discard (e.g., burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

[60 FR 25542, May 11, 1995, as amended at 64 FR 36488, July 6, 1999]

§ 273.4 Applicability—mercury thermostats.

(a) *Thermostats covered under this part 273.* The requirements of this part apply to persons managing thermostats, as described in § 273.9, except those listed in paragraph (b) of this section.

(b) *Thermostats not covered under 40 CFR part 273.* The requirements of this part do not apply to persons managing the following thermostats:

(1) Thermostats that are not yet wastes under part 261 of this chapter. Paragraph (c) of this section describes when thermostats become wastes.

(2) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, subpart C.

(c) *Generation of waste thermostats.* (1) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).

(2) An unused thermostat becomes a waste on the date the handler decides to discard it.

[60 FR 25542, May 11, 1995, as amended at 64 FR 36488, July 6, 1999]

§ 273.5 Applicability—lamps.

(a) *Lamps covered under this part 273.* The requirements of this part apply to persons managing lamps as described in § 273.9, except those listed in paragraph (b) of this section.

(b) *Lamps not covered under this part 273.* The requirements of this part do not apply to persons managing the following lamps:

(1) Lamps that are not yet wastes under part 261 of this chapter as provided in paragraph (c) of this section.

(2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it

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exhibits one or more of the characteristics identified in part 261, subpart C of this chapter.

(c) *Generation of waste lamps.* (1) A used lamp becomes a waste on the date it is discarded.

(2) An unused lamp becomes a waste on the date the handler decides to discard it.

[64 FR 36488, July 6, 1999]

§§ 273.6–273.7 [Reserved]

§ 273.8 Applicability—household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this part:

(1) Household wastes that are exempt under § 261.4(b)(1) of this chapter and are also of the same type as the universal wastes defined at § 273.9; and/or

(2) Conditionally exempt small quantity generator wastes that are exempt under § 261.5 of this chapter and are also of the same type as the universal wastes defined at § 273.9.

(b) Persons who commingle the wastes described in paragraphs (a)(1) and (a)(2) of this section together with universal waste regulated under this part must manage the commingled waste under the requirements of this part.

[64 FR 36488, July 6, 1999]

§ 273.9 Definitions.

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 § 273.13 (a) and (c) and § 273.33 (a) and (c). 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.

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

Generator means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

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.

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, thermostats, or lamps, 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.

On-site means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

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:

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