



February 2007

Mercury-Containing Equipment: New Handling and Disposal Options

Hazardous wastes are types of wastes that require compliance with rigid handling and disposal requirements. A few categories of hazardous waste, including relatively common items that have been deemed to pose a low risk, can be handled as "universal waste" instead of hazardous waste. The rules for handling and disposing of universal waste are less stringent than those for hazardous waste but must, nonetheless, be complied with completely to allow the exemption from hazardous waste handling requirements.

United States Environmental Protection Agency (USEPA) regulations allow states to include mercury-containing equipment (MCE) as a type of universal waste. MCE are devices or parts of devices that contain elemental mercury as an integral component of the device's function, including such instruments as thermometers, barometers, manometers, sphygmomanometers, temperature and pressure gauges and mercury switches. Health care facilities, in particular, often generate a significant amount of MCE waste.

Until May of 2006, New York recognized only four types of universal waste: light bulbs that contain mercury or other heavy metals such as fluorescent, high intensity discharge, mercury vapor, neon and metal halide; batteries that contain heavy metals, including lead acid, lithium, mercury oxide and nickel cadmium; certain pesticides; and mercury thermostats. While New York has not yet created a rule including MCE in

the types of universal waste, on May 8, 2006, New York State Department of Environmental Conservation (NYSDEC) Commissioner, Denise M. Sheehan, issued a Commissioner's Policy known as CP-39 permitting disposal of MCE as a universal waste. In essence, CP-39 permits a universal waste handler to dispose of MCE as either universal waste or hazardous waste until New York promulgates a formal regulation categorizing MCE as universal waste. Under CP-39, health care facilities can now handle all MCE, not just mercury thermostats, as part of their universal waste program.

There are myriad factors a universal waste handler should take into consideration when deciding whether to begin handling MCE as universal waste, such as the type, size, and administration of the particular facility and the total volume of universal waste it may accumulate for disposal. Deciding to handle MCE as universal waste will have an effect on both the manner of handling the MCE and the required paperwork. Additionally, facilities must be aware that unless they comply strictly with all universal waste requirements for bulbs, batteries, MCE and pesticides, those wastes are not eligible for the universal waste management exemption and must be handled as hazardous waste. The penalties for mismanagement of universal waste can be significant.

For further information on handling and disposing of mercury-containing equipment, please contact Holly Austin at Hancock & Estabrook (315) 471-3151 or e-mail her at haustin@hancocklaw.com.