

CHAPTER 62-737 THE MANAGEMENT OF SPENT MERCURY-CONTAINING LAMPS AND DEVICES DESTINED FOR RECYCLING

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62-737.100 Purpose and Intent.

In order to protect the public health, welfare and the environment, to encourage the environmentally responsible reclamation of mercury from mercury-containing lamps and devices, and to provide for the proper management of these lamps and devices, this chapter establishes criteria and procedures for the management of mercury-containing lamps and devices, for obtaining a mercury reclamation or mercury recovery facility permit, and sets the criteria applicable to handlers and transporters shipping spent universal waste lamps and devices to these facilities for the recovery and reclamation of mercury therefrom, in addition to those in 40 CFR Part 273 as adopted by reference under Rule 62-730.185, F.A.C.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98.

62-737.150 Applicability and Exemptions.

(1) Generators, transporters, and facilities managing or disposing of spent mercury-containing lamps or devices in a manner other than recycling as provided for under this chapter are not subject to the provisions of this chapter, but shall comply with 40 CFR 262.11, as adopted by reference under Rule 62-730.160, F.A.C., and all other applicable Department and federal regulations including Rules 62-737.300 and 62-701.300, F.A.C.

(2) The provisions of this chapter, except where specified, apply to spent mercury-containing lamps and devices that are characteristically hazardous wastes for mercury per 40 CFR 261.24, as adopted by reference under Rule 62-730.030, F.A.C. When managed in accordance with this chapter, these wastes are considered to be universal wastes in Florida and are also subject to the applicable 40 CFR Part 273 requirements as adopted by reference under Rule 62-730.185, F.A.C.

(3) Generators of spent universal waste lamps or devices that manage them in accordance with this chapter and Rule 62-730.185, F.A.C., are not required to include these wastes when making hazardous waste generator status quantity determinations under 40 CFR 261.5 or Part 262.

(4) Handlers and transporters of universal waste lamps and devices that are complying with this chapter and the applicable 40 CFR Part 273 requirements are exempt from the 40 CFR 268.7 and 268.50 land disposal restriction requirements as adopted by reference under Rule 62-730.183, F.A.C.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98.

62-737.200 Definitions.

As used in this chapter, unless the context indicates otherwise, the following words, phrases, or terms shall have the following meanings:

(1) "Ampoule" means an enclosed vessel containing liquid mercury or mercury amalgam and that is a component of a mercury-containing lamp or device and can typically be removed intact from that mercury-containing lamp or device.

(2) "Applicant" means the person applying to receive a permit under this chapter to operate a mercury recovery or mercury reclamation facility located within the state.

(3) "Closure" means the assessment, remedial action or abatement needed to identify, remove and properly dispose of or recycle all spent lamps, mercury-containing devices, and mercury-containing residuals or contaminated media and debris from mercury recovery or mercury reclamation facilities after the date of cessation of operations.

(4) "Daily processing capacity" means the maximum amount of spent lamps, mercury-containing devices, or mercury-containing residuals, expressed as tons of materials, which can be fully processed by the processing equipment within 24 hours.

(5) "Department" means the Florida Department of Environmental Protection.

(6) "Facility" means all contiguous land and structures, equipment and other appurtenances, and improvements on the land owned or operated for mercury recovery or mercury reclamation operations.

(7) "Generator" means any person whose act or process produces spent mercury-containing lamps or devices.

(8) "Indoors" means within a structure that excludes rain and public access and would control air flows in the event of a fire.

(9) "Mercury-containing devices" means any electrical product, or other devices, excluding a battery or a mercury-containing lamp, that is unprocessed and has been determined by the Department as proven to release mercury into the environment. The Department has determined that the following items are included in this definition: mercury thermostats, electric mercury switches and relays, thermometers, manometers, ampoules removed from lamps or these devices in accordance with the 40 CFR 273.13 or 273.33 thermostat ampoule removal standards as adopted by reference under Rule 62-730.185, F.A.C., and other devices which contain liquid mercury as a component necessary for their operation.

(10) "Mercury-containing lamp" means any type of high or low pressure lighting device that is unprocessed such as being crushed by a generator per paragraph 62-737.400(6)(b), contains mercury, and that generates light through the discharge of electricity either directly or indirectly through a fluorescing coating. This term includes fluorescent lamps, mercury vapor lamps, metal halide lamps, high pressure sodium lamps and neon lamps containing mercury. The term excludes mercury-containing lamps used in residential applications and that are disposed of as part of ordinary household waste. For the purposes of this chapter, except for annual reporting requirements under subsection 62-737.800(12), it is assumed that 4 unbroken lamps are equal to 1 kilogram in weight.

(11) "Mercury-containing residuals" or "residuals" mean materials or wastes including separated glass, separated metal, phosphor powder, ampoules not removed from lamps or these devices in accordance with the 40 CFR 273.13 or 273.33 thermostat ampoule removal standards, filtration material or any other residuals or combinations of the above that are generated as a result of mercury-containing lamp or device recovery or reclamation operations, or as the result of a cleanup, and that contain or have been in contact with mercury.

(12) "Mercury reclamation facility" means a universal waste lamp or device destination facility where operations or processes are performed or equipment is used to receive and recapture mercury from spent mercury-containing lamps or devices, ampoules, mercury-containing materials or residuals, or pourable, commodity grade mercury materials and that can demonstrate, using a quality control plan approved in accordance with Chapter 62-160, F.A.C., and an EPA analytical test method for determining the total mercury content of a waste material, an effective reclamation rate of at least 99% of the mercury introduced into its process or a resulting total mercury concentration remaining in the processed material that is below the method detection limit; and by which a commercial grade of mercury is produced for recycling.

(13) "Mercury recovery facility" means a universal waste lamp or device destination facility where operations or processes are performed or equipment is used to receive and process spent mercury-containing lamps or devices for the purpose of crushing or dismantling and separating the lamps or devices in a manner as to produce: separated, individual recyclable components such as glass and scrap metal; and mercury-containing phosphor powder or other mercury-containing residuals that will be processed at a mercury reclamation facility for the purpose of reclamation of the mercury.

(14) "Method detection limit" means the smallest concentration of an analyte of interest that can be measured and reported with 99 percent confidence that the concentration is greater than zero.

(15) "OSHA" means the United States Occupational Safety and Health Administration.

(16) "Person" means any and all persons, natural or artificial, including any individual, firm or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal government.

(17) "Phosphor powder" or "powder" means the mercury-containing calcium or other luminescent phosphor powder contained within a spent fluorescent lamp.

(18) "Process" or "operation" means the application and use of processing equipment.

(19) "Processed material" means a component of a lamp or a device that is a direct result of processing equipment operations.

(20) "Processing equipment" means any equipment that is used in mercury recovery or mercury reclamation operations to separate, crush, consolidate, recover, retort, distill or to physically alter the state of spent mercury-containing lamps or devices, or mercury-containing residuals as they are received.

(21) "Reclaimed" means the processing of a material to return it to its commercial marketable form.

(22) "Recycled" or "Recycling" means any process by which spent lamp, mercury-containing device, or mercury-containing residual components such as glass, mercury, phosphor powder or metal are reused or returned to use in the form of products or raw materials.

(23) "Reverse distribution program" means a manufacturer- or distributor-sponsored product stewardship program in which a manufacturer or distributor, including a person distributing lamps to its subsidiary facilities, or a group of manufacturers or distributors, acting together or through a trade organization, assumes responsibility and provides for the collection of spent mercury-containing lamps or devices at its own facility or facilities that are designated by it, for the purposes of recovering and reclaiming the mercury from such lamps or devices. In a program sponsored by a lamp or device manufacturer, it shall provide evidence that reclaimed mercury is used in new mercury-containing lamps or devices produced by the manufacturer(s).

(24) "Separated glass" means glass that is separated as a result of mercury recovery or reclamation operations and is from the processing of mercury-containing lamps or devices.

(25) "Separated metal" means metal, both ferrous or non-ferrous, that is separated as a result of mercury recovery or reclamation operations and is from the processing of mercury-containing lamps or devices.

(26) "Spent" means has been used, removed from service and is to be discarded.

(27) "Truck" means a trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, motorcycles or farm tractors and trailers.

(28) "Universal waste lamp or device destination facility" or "lamp or device destination facility" means a mercury recovery or reclamation facility permitted by the Department or an out-of-state recycling facility permitted by another state for the processing of universal waste lamps or devices and the ultimate recovery and reclamation of the mercury they contain, and one that meets the applicability requirements for a destination facility under 40 CFR 273.60 as adopted by reference under Rule 62-730.185, F.A.C.

(29) "Universal waste device" or "device" means any mercury-containing device, excluding one generated by a household exempted under 40 CFR 261.4(b)(1), that is also characteristically hazardous for mercury under 40 CFR 261.24 and is being managed in accordance with this chapter.

(30) "Universal waste lamp" or "lamp" means any mercury-containing lamp that is also characteristically hazardous for mercury under 40 CFR 261.24 and is being managed in accordance with this chapter.

(31) "Universal waste lamp or device handler" or "handler" means a generator, or another person including a transfer facility storing lamps or devices more than 10 days, that generates or receives universal waste lamps or devices from other handlers, accumulates and manages these lamps and devices in accordance with this chapter, and ships them to a universal waste lamp or device destination facility.

(a) A large quantity handler of universal waste lamps or devices is: a generator or reverse distribution handler accumulating 5,000 kilograms or more of universal waste lamps or devices at any one time; or another handler, excluding a generator or reverse distribution handler, that accumulates 2,000 kilograms or more of lamps or 100 kilograms or more of devices at any one time.

(b) A small quantity handler of universal waste lamps or devices is a generator or reverse distribution handler accumulating less than 5,000 kilograms of universal waste lamps or devices at any one time; or another handler that accumulates less than 2,000 kilograms of lamps or 100 kilograms of devices at any one time.

(32) "Universal waste lamp or device transfer facility" or "transfer facility" means an in-state transportation-related facility including loading docks, parking areas, storage areas, and other similar areas, including those

designated at lamp generator facilities during relamping activities, where shipments of universal waste lamps or devices are held during the normal course of transportation for 10 days or less. Transfer facilities do not include handler facility areas where handlers are accumulating lamps or devices in accordance with 40 CFR 273.15 or 273.35.

(33) “Universal waste lamp or device transporter” or “transporter” means any person, including a generator or other handler, engaged in the off-site transportation of universal waste lamps or devices to a handler or lamp or device destination facility by air, rail, highway or water.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98.

62-737.300 Prohibitions.

(1) Effective January 1, 1996, any mercury-containing device or device components that contains mercury shall not knowingly be disposed of in landfills or incinerated in any manner prohibited by Section 403.7186, F.S.

(2) Spent mercury-containing lamps or residuals therefrom shall not knowingly be incinerated in any municipal or other incinerator.

(3) Separated glass resulting from the processing of spent mercury-containing lamps or devices is prohibited from being used in food and beverage containers.

(4) Handlers and transporters of universal waste lamps and devices shall not dispose of, dilute or treat these lamps or devices, except as specified under this chapter or by responding to a release. Mercury-containing lamps or devices that have been identified as hazardous wastes and are not being managed as universal waste lamps or devices under this chapter, may be managed in accordance with Chapter 62-730, F.A.C.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98.

62-737.400 Requirements and Management Standards for Handlers and Transporters of Spent Universal Waste Lamps and Devices

(1)(a) All universal waste lamp or device handlers and transporters shall comply with the applicable 40 CFR Part 273 requirements adopted by reference under Chapter 62-730, F.A.C., and the requirements of this chapter.

(b) In addition, handlers and transporters of spent universal waste lamps or devices shall only ship these lamps or devices to a handler or universal waste lamp or device destination facility.

(2) A transporter using trucks for the transport of spent universal waste lamps and devices shall only use trucks that are totally enclosed and in good condition. A transporter using trucks or other mode(s) of transportation should also refer to the United States Department of Transportation’s requirements contained in 49 CFR Parts 171 through 173.

(3)(a) Registration:

1. A generator, a handler or transporter managing lamps or devices covered under a reverse distribution program, or a person only collecting spent lamps from generators of 10 or less spent lamps per month and who does not accumulate more than 100 kilograms of lamps at one time, is not required to register with the Department as specified in paragraphs 2. and 3. below for these activities;

2. Before beginning operations and annually thereafter by March 1, a handler or a transporter of spent universal waste lamps or devices, excluding a person specified in paragraph 1. above, and the sponsor of a reverse distribution program shall register by notifying the Department of its intent to be a handler or transporter or to operate a reverse distribution program, and certifying that it has employee training procedures in place for the proper handling, emergency response, and containment and cleanup of its spent universal waste lamps or devices. This registration/notification shall be made by submitting a completed Form 62-730.900(1)(b), “8700-12FL – Florida Notification of Regulated Waste Activity,” effective date 1-4-09, which is hereby adopted and incorporated by reference [this Form can be obtained on the internet at http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-730.htm or by contacting the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400]; and

3. Excluding a generator facility, and a handler area used only for lamps or devices collected as a result of its participation in a reverse distribution program; the owner or operator of a large quantity handler facility, or of a transfer facility that stores lamps or devices in areas other than on a lamp or device transport vehicle, and where

2,000 kilograms or more of universal waste lamps or 100 kilograms or more of devices are accumulated at one time shall, in addition to the requirements of paragraph (3)(a)2. above:

a. Submit a one-time registration fee of one thousand dollars for each separate facility location registration;

b. Develop and submit to the Department, along with its registration, an operational plan including a description of its general housekeeping measures, employee training program, methods to prevent breakage or releases, and its methods for responding to releases of universal lamps or devices or their components; and

c. Submit to the Department, along with its registration, a closure plan including financial assurance as specified in paragraph 62-737.800(4)(g).

4. Within 60 days of receipt of a completed registration form (DEP Form 62-730.900(1)(b) [adopted by reference in subparagraph 62-737.400(3)(a)2., F.A.C.] and supporting material, including the registration fee if applicable, the Department shall review the form and supporting material and shall either:

a. Issue the registration; or

b. Notify the owner or operator in writing of any deficiencies in or items omitted from the registration materials. For purposes of this paragraph, “deficiency” means that the submitted material does not contain information adequate to support the conclusion that the submittal conforms to the requirements specified in this chapter. Within 30 days of receipt of a written notification from the Department that a submission is deficient, the owner or operator shall submit the requested information to the Department. A modification of this 30 day time frame may be obtained by the owner or operator by requesting in writing that the Department make such a modification. Upon receipt of the omitted items and/or correction of deficiencies, the Department shall issue the registration.

5. The failure of the Department to meet the time frame in paragraph (3)(a)4. above shall entitle the owner or operator to compel compliance through the provisions of Section 403.412, F.S., or through such remedies as may be available and appropriate in circuit court. In no circumstances shall the Department’s failure to meet this time frame be construed as issuance of a registration.

6. A handler or transporter, excluding one exempted from registration under paragraph (3)(a)1. above, shall not begin or continue operations without a current and valid registration issued by the Department.

(b) Notification:

1. Before meeting or exceeding an accumulation amount of 5,000 kilograms of lamps or devices, a generator, reverse distribution handler facility, or other handler shall notify the Department per 40 CFR 273.32(b) as adopted by reference under Rule 62.730.185, F.A.C., using DEP Form 62-730.900(1)(b) [adopted by reference in subparagraph 62-737.400(3)(a)2., F.A.C.,] and receive a DEP/EPA ID number;

2. A small quantity handler of lamps or devices that also accumulates other universal wastes adopted under Rule 62-730.185, F.A.C., shall also make this notification before meeting or exceeding a combined universal waste amount of 5,000 kilograms; and

3. This notification is not required for a site that has previously notified the Department of its hazardous waste management activities and has received a DEP/EPA ID number.

(4) A small quantity or a large quantity handler of lamps or devices, per 40 CFR 273.16 or 273.36 respectively, as adopted by reference under Rule 62-730.185, F.A.C., and a transporter shall ensure that all its employees, involved with the management of universal waste lamps or devices, are trained in the proper handling (e.g., packaging and preventing breakage) and emergency cleanup and containment procedures applicable to its handling or transport of spent universal waste lamps or devices. These emergency procedures will be kept on each one of the transporter’s vehicles and at the business location of the handler or transporter, and shall be made available for inspection upon request by the Department.

(5) Handlers and transporters shall manage universal waste lamps and devices in a way that prevents breakage, releases of their components to the environment, and their exposure to moisture. In the event of a release, the handler or transporter must determine whether the cleanup residues (e.g., cleanup equipment and contaminated soils) resulting from the release are hazardous waste, and if so, must manage them in accordance with Chapter 62-730, F.A.C. The following management standards shall be observed in addition to the applicable requirements adopted under Rule 62-730.185, F.A.C., and the U.S. Department of Transportation 49 CFR Parts 171 through 180, hazardous material regulations.

(a) Fragile universal waste devices, universal waste lamps crushed per paragraph (6)(b) below, and lamps or devices showing evidence of leakage, spillage, or damage that could cause leakage, shall be placed in closed containers that are structurally sound; compatible with the universal waste lamp or device; and that lack evidence of leakage, spillage or damage that could allow leakage.

(b) Universal waste lamps, devices or the containers in which they are stored shall be labeled or marked clearly as follows:

1. For universal waste lamps, the words “Spent Mercury-Containing Lamps for Recycling”, “Universal Waste Mercury Lamps”, “Waste Mercury Lamps” or “Used Mercury Lamps”; except for those crushed per paragraph (6)(b) below which shall be labeled “Crushed Mercury Lamps”;

2. For universal waste devices, except for thermostats which shall be labeled per 40 CFR 273.14(d), the words “Spent Mercury-Containing Devices for Recycling”, “Universal Waste Mercury Devices”, “Waste Mercury Devices” or “Used Mercury Devices”;

(6)(a) A handler of universal waste devices or lamps may remove mercury-containing ampoules from these devices or lamps provided the handler complies with the thermostat ampoule removal requirements under 40 CFR 273.13(c) or 273.33(c).

(b) A generator of universal waste lamps may use crushing equipment on-site to reduce the volume of the stored lamps provided that: this is done in a final accumulation container; the lamps are crushed in a controlled manner that prevents the release of mercury vapor or other contaminants; the crushing operations and maintenance of the unit are performed in accordance with written procedures developed by the manufacturer of the equipment including specific instructions for the frequency of filter changes; and the employees using this equipment are thoroughly familiar with these written procedures and emergency procedures should equipment malfunction occur.

(7) A handler or transfer facility, excluding a generator, shall store its universal waste lamps or devices indoors, and shall not store more than the amount specified in its registration or closure plan. A handler shall not store for more than one year, or a transfer facility for more than ten days, universal waste lamps or devices from the date of generation or from when they were first received, respectively. Handlers and transfer facilities shall be able to demonstrate the length of lamp or device storage as specified in 40 CFR 273.15 or 273.35 as adopted by reference under Rule 62-730.185, F.A.C.

(8) A handler of lamps or devices accumulating 5,000 kilograms or more of lamps or devices, or 5,000 kilograms or more of lamps or devices and other universal wastes adopted under Rule 62-730.185, F.A.C., shall track receipts and shipments of these lamps or devices in accordance with 40 CFR 273.39 as adopted by reference under Rule 62-730.185, F.A.C.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.704, 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98, 1-4-09.

62-737.710 Requirements for Reverse Distribution Programs

(1) A person sponsoring a reverse distribution program shall comply with the applicable provisions of this chapter, including subparagraph 62-737.400(3)(a)2., and annually submit to the Department by March 1 a description of the program including, at a minimum, an operational plan containing general housekeeping measures; the content of its employee training program; methods to prevent breakage or releases, and methods for responding to releases of universal waste lamps, devices or their components that will be employed at each of its participating lamp or device handler facilities; the amounts of lamps or devices to be stored; and the names and addresses of any participating:

(a) Handlers, excluding generators;

(b) Transporters shipping from handlers, excluding generators, to other handlers, mercury recovery or mercury reclamation facilities or other lamp or device destination facilities; and

(c) In-state or out-of-state lamp or device destination facilities such as mercury recovery and mercury reclamation facilities.

(2) New transporters, handlers or lamp or device destination facilities may be added at any time during the year, but the Department shall be notified of any changes at least annually.

(3) Transporters and handlers participating in a reverse distribution program shall be exempted from the specific provisions below, provided that the program contains the following alternative mechanisms:

(a) The registration requirements of paragraph 62-737.400(3)(a), provided that the reverse distribution program sponsor or another party acting on behalf of the program sponsor notifies and registers with the Department;

(b) Subsection 62-737.400(4), provided that the reverse distribution program sponsor provides for the training of all transporters and handlers participating in the program through training program procedures for the proper handling and emergency cleanup and containment of the universal waste lamps or devices being collected, and provides documentation of such to the Department; and

(c) For participating transporters, paragraph 62-737.400(5)(b), provided that the program’s sponsor takes responsibility for the labeling of containers at handler facilities receiving universal waste lamps or devices from transporters that identifies the container contents.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98.

62-737.800 Permit Application Requirements and General Permitting Standards for Mercury Recovery and Mercury Reclamation Facilities.

(1) A person wanting to construct or operate a mercury recovery or mercury reclamation facility shall submit an application to the Department to obtain a permit and shall meet the requirements for the applicable operation prior to commencing any construction activities or conducting any operations contained in this chapter.

(2) Information in the application shall be of sufficient detail to show how the facility will be constructed, operated, and closed, and how it will be monitored and maintained during operations and closure in order to comply with the requirements of this chapter. All engineering plans, reports and information supporting the application shall be compiled or supervised, and signed and sealed, by a professional engineer registered in Florida.

(3) All permit applications required under this chapter shall be submitted on DEP Form 62-737.900(2) and shall be accompanied by a \$2,000 permit fee or \$4,000 for a combined mercury recovery and reclamation facility.

(4) All permit applications shall contain the following information:

(a) Applicant's name and address;

(b) Location of facility. A facility cannot be located in a 100-year flood plain unless the applicant can provide reasonable assurance that the facility will be constructed to prevent flooding;

(c) Description of its storage, operations, processing equipment and pollution control equipment;

(d) A contingency plan for responding to interruptions to operations and emergencies in accordance with 40 CFR Part 264 Subpart D as adopted by reference in Rule 62-730.180(1), F.A.C.;

(e) A worker health and safety plan including training:

1. Facility personnel must successfully complete a program of classroom or on-the-job training that teaches them to perform their duties in a way that ensures the safe operation of the processing equipment, and that ensures the facility's compliance with its emergency response procedures and its inspection methods to identify and prevent releases to the environment. Facility personnel must also be informed of their possible exposure to hazardous substances in their work environment and must be informed of the facility's health and safety plan. Owners and operators are advised that other OSHA requirements may apply to their facility operations, and

2. Operators of equipment, or those involved in the processing operations must complete the training specified in subparagraph (4)(e)1. before conducting processing activities. Facilities shall maintain written records of the successful training of these employees, including any new ones, and the type and nature of the training provided for each employee for a period of three years from the date an employee last worked at the facility;

(f) A quality control plan that defines how the facility operator will monitor and evaluate the requirements specified in the facility's submittals under paragraphs (c), (d), (e), (g) and (i) of this section. The quality control plan shall include examples of checklists, logs or inspection forms to monitor compliance with the requirements under this chapter. Any required sampling and analysis for operations or closure shall meet the requirements of Rule 62-160.300(6), F.A.C. The Standard Operating Procedures Manual to be followed for sampling shall be the "Quality Assurance Standard Operating Procedures for Sampling at Facilities Permitted Under Chapter 62-737, F.A.C., November 14, 1997", which is hereby incorporated by reference, or equivalent procedures may be used as specified in Rule 62-160.300(6), F.A.C.;

(g) A closure plan conforming to the requirements of 40 CFR Part 264, Subpart G as adopted by reference under Rule 62-730.180(1), F.A.C., including financial assurance:

1. Financial assurance shall be provided to the Department in accordance with 40 CFR Part 264, Subpart H as adopted by reference under Rule 62-730.180(1), F.A.C., except for all references to 40 CFR 264.144, 264.145, 264.146 and 264.147. References in 40 CFR Part 264, Subpart H to the United States Environmental Protection Agency (EPA) shall mean the State of Florida Department of Environmental Protection; to Regional Administrator shall mean the Secretary of the Department; and

2. Applicants shall complete the applicable Department forms listed in Rule 62-730.900(4)(a)-(j), F.A.C., to demonstrate compliance with the financial assurance requirements of this rule. Photocopies of Department-supplied forms are acceptable. Retyped forms are not acceptable and will be returned;

(h) A demonstration by the owner or operator of the proper amount of general and pollution liability insurance as specified in paragraph (13) below; and

(i) An inspection plan including schedules for inspecting processing equipment, safety and monitoring equipment, emission control equipment and emergency response equipment for malfunctions and deterioration,

operator errors, and discharges which may cause, or lead to a release of hazardous materials into the environment or which might lead to a threat to human health. This plan shall also cover preparedness and prevention activities in accordance with 40 CFR Part 264 Subpart C as adopted by reference under Rule 62-730.180(1), F.A.C.

(5) The permit application will be processed in accordance with Section 403.722, F.S., including the requirements for notification of local governments of the filing of the application and publication of notice of the filing of the application as set forth in Subsection 403.722(12), F.S., and the publication of notice of the Department's proposed agency action to issue the permit as set forth in Subsection 403.722(10), F.S.

(6) Permits issued under this chapter shall be subject to the renewal and transfer requirements of Rule 62-730.300, F.A.C., except that DEP Form 62-737.900(2) shall be substituted for DEP Form 62-730.900(2).

(7) All owners and operators of mercury recovery and mercury reclamation facilities shall:

(a) Have established markets for the utilization of reclaimed materials and be able to identify these markets to the Department;

(b) Only introduce into the processing equipment lamps or devices for which the equipment was specifically designed to process, and operate and maintain processing equipment consistent with the equipment manufacturer's specifications;

(c) Inspect their facilities for malfunctions and deterioration, for operator errors, and discharges which may cause, or lead to a release of hazardous materials into the environment or which might lead to a threat to human health; and

(d) Keep records of inspections (logs) which shall include the date and time of the inspection, the name of the inspector, a notation of observations made, and the date and nature of any repairs made or other remedial actions taken. The logs or records must be kept for a minimum of three years from the date of the inspection.

(8) Owners and operators shall install, operate, monitor and maintain air pollution control equipment as to reduce the mercury emissions from the processing equipment, processing operations and in the processing area in accordance with the Department's air permitting requirements as specified in Rule 62-210.300, F.A.C.

(9) Owners and operators shall store processed and unprocessed materials in closed containers; and for broken or damaged unprocessed lamps and devices, and residuals, store these in closed, covered and sealed containers or in enclosed areas of the facility conforming to paragraph 62-296.417(1), F.A.C., to prevent mercury emissions. They shall store unprocessed materials, ampoules, phosphor powder and other mercury-containing residuals indoors to prevent breakage of lamps or devices prior to further processing and to prevent a release of hazardous materials to the environment. Separated glass and metal that is stored outdoors shall be stored in covered, watertight containers or in a manner that otherwise prevents contact with water and prevents the release of hazardous materials into the environment, located within portions of the facility with controlled access limited to authorized persons only, and stored in compliance with any applicable hazardous waste storage requirements adopted under Chapter 62-730, F.A.C. Universal waste lamps and devices, and other wastes that mercury reclamation facilities are permitted to receive, may not be stored longer than one year from when they were first received.

(10) Per Rule 62-730.290, F.A.C., owners and operators shall, using DEP Form 62-737.900(2), notify the Department prior to any modifications to the operations or equipment which do not conform to the approved permit. Fees for such modifications shall be 10 percent of the fees specified in subparagraph 62-4.050(4)(k)17., F.A.C., except for modifications specified under subparagraph 62-4.050(4)(k)17.a., F.A.C., in which case the modification fee shall be the same as the permit application fee specified in Subsection 62-737.800(3).

(11) Owners and operators shall keep and maintain copies of shipping documents, including shipping papers and logs detailing shipments received from transporters, hazardous waste manifests and any documents disclosing shipping discrepancies. Such records shall be kept at the facility location for a period of three years from the dates of receipt or shipment, shall be made available to the Department upon request, and shall include the following information:

(a) The dates, amounts, and generators of material received for storage or processing;

(b) The dates, amounts and destinations of materials shipped off-site for further processing or disposal; and

(c) Any other information that indicates the ultimate disposition of the stored or processed materials.

(12) Owners and operators shall submit annual reports to the Department on DEP Form 62-737.900(3) by March 1 of each year, with the first report due March 1, 1996, for activities performed in the previous calendar year, that shall include the following information:

(a) Total types and amounts of materials received by the facility for storage or processing;

(b) Amounts, by destination, of materials shipped off-site for processing, recycling or disposal; and

(c) Total amounts and descriptions of any unprocessed and processed materials stored at the facility at the beginning and end of the reporting period.

(13) The owner or operator shall establish and maintain general liability and pollution liability insurance in amounts adequate to provide coverage for liability potentially incurred in the operation of the facility. For purposes of this rule, insurance coverage in the amount of one million dollars of annual aggregate coverage for general liability and one million dollars of annual aggregate coverage for pollution liability shall be deemed adequate. Each insurance policy must be issued by an insurer licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in the State of Florida. Proof of such insurance shall be provided to the Department at least 60 days prior to initial receipt of universal waste lamps or devices and then annually thereafter. The insurance must be effective before this initial receipt of universal waste lamps or devices. Such proof shall consist of a signed duplicate original certificate of insurance with the Secretary of the Department listed as the certificate holder. If requested by the Department, the insured must provide a signed duplicate original of the insurance policy.

(14) Within two weeks of any emergency event, the operator of the facility shall submit to the Department a written report on the emergency that shall include a description of the origin or cause of the emergency, the actions taken to deal with the emergency, the results of those actions taken, and an analysis of the success or failure of the actions. Emergency events include potential hazards to human health and the environment caused by any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface or ground water as a result of fire, explosion, natural disaster, equipment failure, or some other occurrence.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.0877, 403.7186, 403.721, 403.722, 403.724 FS. History—New 5-10-95, Amended 5-20-98.

62-737.840 Additional Permitting Requirements for Mercury Recovery Facilities

(1) Mercury recovery facilities shall conform to the general facility requirements as specified in Rule 62-737.800. In addition, these facilities shall meet the requirements of this section.

(2) These facilities shall not store quantities of processed or unprocessed materials that exceed the allowed permitted storage specified in its operating permit. The storage of processed material shall not exceed amounts greater than 100 tons total at any one time.

(3)(a) If a facility's processed materials are to be delivered to other than a mercury reclamation facility, the facility shall test and ensure that such materials containing mercury:

1. Have less than 3 parts per million of "average mercury" during each consecutive 12 week time period of operations,
2. Have less than 5 parts per million of total mercury as reported in the "weekly composite sample of process operations", and
3. Are not a hazardous waste.

(b) Processed materials that are in excess of the allowable levels of mercury specified in subparagraph (a) above shall either be retested, reprocessed or delivered to a mercury reclamation facility.

(c) The processed material's mercury content shall be demonstrated through sampling and analytical testing of these materials for total mercury as follows:

1. Facility operators shall take daily physical samples of the mercury-containing materials at the point at which they exit the processing equipment. These samples shall be representative of the materials processed during that day.

2. At the beginning of each week, the prior week's daily samples shall be consolidated into one weekly sample which shall be submitted for chemical analysis of total mercury content using an approved EPA methodology specified under the facility's operating permit issued under this chapter. At least three separate daily samples shall be taken in order to obtain a weekly sample. When a facility is not operating at least three days during a week, that week will be dropped out of the 12 week rolling average under subparagraph (c)3. below. However, all daily samples that are in a week that has been dropped out shall be counted towards the very next weekly sample that is included in a 12 week rolling average. The result of this analysis shall be considered the "weekly composite sample of process operations".

3. The "average mercury" value calculation shall be the average of weekly composite sample results from samples taken during the most recent 12 week time period with each new weekly composite sample result replacing the oldest sample result that was used in the 12 week period.

(d) Effective January 1, 2000, the "average mercury" content and the "weekly composite sample of process operations" identified in subparagraphs (a)1. and 2. shall be reduced to 1 part per million and 3 parts per million, respectively.

1. The owners or operators of any facility or group of facilities may request in writing a determination by the Department that the provisions for mercury recovery of this paragraph may be met through proposed alternate procedures. This request must address the criteria set forth in Rule 62-701.310(2), F.A.C., which is hereby incorporated by reference solely for the purposes of this paragraph. Requests for alternate procedures shall be submitted to the appropriate District office of the Department in the form of a request for permit modification, and shall be acted upon by that District office in the same manner as any other permit modification. The fee shall be the same as for permit modifications provided in Rule 62-737.800(10), F.A.C.

2. In order to show that the alternate procedure provides an equal degree of protection for the public and the environment, a person shall demonstrate that the total amount of mercury to be annually recovered and reclaimed under the alternate procedure would be at least as much as the total amount of mercury that would be recovered and reclaimed without the alternate procedure. Such a determination shall initially be based upon the amount of mercury recovered by a facility from processed materials subject to the standard in this paragraph during the base year immediately preceding a request for approval of alternate procedures as documented on Form 62-737.900(3). If the amount of processed materials has increased during the current or a subsequent year over the preceding base year, the facility shall make the appropriate adjustments during that year to ensure that an equivalent amount of mercury is being recovered and reclaimed as would be had the alternate procedure not been approved.

(e) Wastes or materials which are not identified in this chapter or which are the result of spills, releases or accidental contact with mercury or other hazardous substances shall be managed at a mercury reclamation facility or in accordance with Chapter 62-730, F.A.C.

(4) A mercury recovery facility shall be able to demonstrate to the Department that the receiving mercury reclamation facility, if located in another state, can reclaim 99% of the mercury contained in the powder, ampoules or mercury-containing process materials through a semi-annual demonstration meeting the specifications of paragraph 62-737.860(4). Statistically significant and updated laboratory analyses shall accompany these demonstrations. Shipments of the above, excluding ampoules removed in accordance with the 40 CFR 273.13 or 273.33 thermostat ampoule removal standards, shall be accompanied by a uniform hazardous waste manifest and be made by a transporter complying with Rule 62-730.170, F.A.C.

(5) These facilities shall ensure that the separated materials that are generated from its operation are suitable and safe for their intended end use and shall bear the burden of responsibility for the safety of these materials sold or delivered from the operation. Facilities shall notify in writing receiving sources, other than mercury reclamation facilities, of the potential or actual content of any hazardous substances present in the processed materials.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98, 1-17-00.

62-737.860 Additional Permitting Requirements for Mercury Reclamation Facilities.

(1) Mercury reclamation facilities shall conform to the general facility requirements as specified in Rule 62-737.800. In addition, these facilities shall meet the requirements of this section.

(2) These facilities shall not store quantities of unprocessed materials that exceed the storage limits specified in its operating permit.

(3) These facilities shall only accept for processing spent lamps, devices, powder, ampoules, commodity grade mercury, residuals or material that is only hazardous due to its mercury content and from which the mercury can be reclaimed as specified in paragraph (4) below.

(4) Facilities shall maintain quality control and testing records based on statistically significant and updated laboratory analyses that use an EPA-approved methodology for analyzing total mercury content, as specified in the facility's operating permit issued under this chapter, and that demonstrate at least semi-annually an effective reclamation rate of 99 percent of the mercury introduced into the process, or a resulting total mercury concentration below the method detection limit.

(5) Facilities shall ensure that recyclable materials that are generated from its operation are of commercial grade and are suitable and safe for their intended end use and shall bear the burden of responsibility for the safety of these recyclable materials sold or delivered from the operation. Facilities shall notify in writing receiving sources of the processed materials, except for commodity grade mercury, of the potential or actual content of any hazardous substances present in these materials.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186 FS. History—New 5-10-95, Amended 5-20-98.

62-737.900 Forms

The following forms are hereby adopted and incorporated by reference. The forms are listed by form number, title, and effective date. The forms can be obtained on the internet at http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-737.htm or by contacting the Hazardous Waste Regulation Section, MS 4560, Division of Waste Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

- (1) [reserved]
- (2) DEP Form 62-737.900(2), Mercury-Containing Lamp and Device Mercury Recovery and Mercury Reclamation Facility Permit Application Form and Instructions. Effective 5-20-98.
- (3) DEP Form 62-737.900(3), Mercury Recovery and Mercury Reclamation Facility Annual Report and Instructions. Effective 5-20-98.
- (4) [reserved]
- (5) DEP Form 62-730.900(4)(a), Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Assurance. Effective 1/5/95.
- (6) DEP Form 62-730.900(4)(b), Hazardous Waste Facility Letter from Chief Financial Officer to Demonstrate Financial Responsibility. Effective 1/5/95.
- (7) DEP Form 62-730.900(4)(c), Hazardous Waste Facility Corporate Guarantee to Demonstrate Financial Assurance. Effective 1/5/95.
- (8) DEP Form 62-730.900(4)(d), Hazardous Waste Facility Corporate Guarantee for Liability Coverage. Effective 1/5/95.
- (9) DEP Form 62-730.900(4)(e), Hazardous Waste Facility Trust Fund Agreement to Demonstrate Financial Assurance. Effective 1/5/95.
- (10) DEP Form 62-730.900(4)(f), Hazardous Waste Facility Standby Trust Fund Agreement to Demonstrate Financial Assurance. Effective 1/5/95.
- (11) DEP Form 62-730.900(4)(g), Hazardous Waste Facility Irrevocable Letter of Credit to Demonstrate Financial Assurance. Effective 1/5/95.
- (12) DEP Form 62-730.900(4)(h), Hazardous Waste Facility Financial Guarantee Bond to Demonstrate Financial Assurance. Effective 1/5/95.
- (13) DEP Form 62-730.900(4)(i), Hazardous Waste Facility Performance Bond to Demonstrate Financial Assurance. Effective 1/5/95.
- (14) DEP Form 62-730.900(4)(j), Hazardous Waste Facility Insurance Certificate to Demonstrate Financial Assurance. Effective 1/5/95.

Specific Authority 403.061, 403.7186 FS. Law Implemented 403.7186, 403.721 FS. History—New 5-10-95, Amended 5-20-98, 1-4-09.