



Commonwealth of Massachusetts
Executive Office of Environmental Affairs

**Department of
Environmental Protection**

William F. Weld
Governor

Daniel S. Greenbaum
Commissioner

July 17, 1992

Mr. Merrill S. Hohman, Director
Office of Waste Management
U.S. Environmental Protection Agency (USEPA)
Region I
25 Canal Street
Boston, MA 02114

RE: Fluorescent Light Bulb
Recycling

Dear Mr. Hohman: *Mel:*

My Department has received several inquiries recently from entrepreneurs wishing to start up fluorescent light bulb recycling operations in the Commonwealth. The individuals have asked for regulatory guidance, specifically what permits would be required for this type of recycling activity.

The attached correspondence reflects the DEP's initial view that the recycling of fluorescent light bulbs containing mercury could be permitted under a Massachusetts Class A hazardous waste recycling permit. (The presence of mercury at levels failing the TCLP test causes the bulbs to be characterized as hazardous waste.) The DEP's view is that a collector of the bulbs who aggregates the material at a specific site should be considered the "generator" and qualify for the permit in its generator capacity.

In our letter of April 8, 1992, to Mr. William Osborne, DEP notified Mr. Osborne that our approach to the permit issue and specifically the "generator" issue was being forwarded to EPA for review and hopefully concurrence.

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Thereafter, Mr. John Gauthier of your staff, after reviewing the proposal, informed Department staff and Mr. Osborne that EPA would consider the "generator" to be the person who removed the bulbs from service at a given business or industrial office place. He took exception to the Department view that the "generator" could be considered the person who took custody of the bulbs for the purpose of recycling. He further suggested that the recycling facility could possibly be exempt from RCRA TSDF requirements as "recycling without prior storage" if the company meets certain design requirements. Mr. Gauthier did not suggest an alternate Class A category that might be appropriate within Massachusetts hazardous waste regulations.

DEP understands that removal and replacement of fluorescent bulbs is being done on a large scale now by various commercial and industrial enterprises. The need to avoid widespread dumping of these mercury-laden bulbs into municipal solid waste landfills or incinerators has spurred recycling proposals in Massachusetts and in some other states (e.g., Minnesota has two fluorescent bulb recycle centers approved and scheduled to be on line late in the summer).

DEP does not feel that EPA's proposed interpretation of "generator" will achieve that goal. Rather it is likely to discourage Massachusetts businesses which use fluorescent bulbs from putting used bulbs into recovery channels which are environmentally protective. Under EPA's interpretation as described by Mr. Gauthier, a large user of bulbs would be required to register as a Large Quantity Generator (LQG), pay the annual compliance fee as an LQG (\$1,800 per year) and manifest loads of fluorescent bulbs by a licensed hazardous waste transporter to the collector who will recycle them. These conditions would create a significant barrier to safe recycling and could foreseeably result in the continued disposal of bulbs in the solid waste stream. In addition, government's availability to oversee and enforce against such pervasive small-scale activities is questionable at best.

DEP's approach, in contrast, would leave it to the collector to determine which bulbs are still useable and which bulbs are spent and ready for recycling. This approach is consistent with our existing policies for recycling used automobile batteries which are still intact as well as PCB transformers and also lighting ballasts containing PCBs (copies enclosed).

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Moreover, there would be an incentive for a bulb user to handle its bulbs in an environmentally safe way by offering them to a collector as a nondiscarded material for transport to the recycling site. It would relieve many businesses, e.g., retailers, large office buildings and companies which have no present hazardous waste activity, from being drawn into a regulatory matrix never intended for them.

Finally, the DEP believes that this approach is within the delegated authority conferred by EPA to Massachusetts and the regulations provide sufficient discretion to deem the point of collection as the site of generation. We feel that this is a more protective standard than proposed by EPA in that it would attract more bulbs to that regulated waste stream at minimum cost to the bulb user.

The Department is ready to inform Mr. Osborne and his competitors that they are free to apply to the Department for Class A recycling permits for recovery of mercury from fluorescent bulbs and that they should register with the Department as Large Quantity Generators.

Given the uncertainty at the national level of this issue and the apparent lessening of regulation in the near future, I urge EPA to reconsider the approach suggested by Mr. Gauthier. DEP is convinced that the best incentive to change the current practice of disposal of fluorescent bulbs as solid waste would be to designate the collector as the "generator".

I will call you in several days, after you have had a chance to review this issue, so that we can discuss our next steps.

I sincerely hope that we can find a mutual understanding so that this beneficial recycling effort can proceed.

Very truly yours,



Thomas Powers, Deputy Commissioner
Department of Environmental Protection

Enclosures
P:pc/Commissi

cc: Steven DeGabrielle
Steven Dreeszen