NEWMOA NORTHEAST WASTE MANAGEMENT OFFICIALS' ASSOCIATION

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Dear Mr. Hale:

On behalf of the NEWMOA Board of Directors, I would like to thank EPA for the opportunity to comment on the draft Fluorescent Lamp Recycling guidance document. We appreciate EPA's efforts to expand the information initially presented in the Agency's Drum-Top Crusher (DTC) Study by developing a best management practices (BMPs) document for spent fluorescent lamps and urging those managing these spent lamps to comply with all applicable regulations during storage and recycling. We think that this document will provide valuable guidance information on proper management and recycling of fluorescent lamps. We offer the following comments to strengthen and improve the current version of the draft EPA guidance.

The title of the document is somewhat misleading since the document largely focuses on use of DTCs and does not address all of the important issues related to proper fluorescent lamp recycling. If the scope of the document is to cover all the management challenges related to proper fluorescent lamp collection and recycling, the Agency needs to address a number of additional issues as described below.

The guidance should resolve the central RCRA policy issues that are raised by use of DTCs. The results of EPA's DTC Study support the position that DTCs are not equivalent to proper storage and shipment of intact lamps destined for recycling, and we strongly urge EPA to make a clear determination that DTCs are treatment as defined under RCRA and that all states must base their regulatory determinations on that policy.

As specified in RCRA Section 3004(m), required treatment of a hazardous waste must include reducing the mobility of the hazardous constituents or their destruction. DTCs do not achieve either one of these standards or definitions of treatment, and the requirements of 3004(m) may never be met with the treatment residuals (namely glass and end caps).

We also question how EPA allows DTC use under the Universal Waste Rule (UWR). DTCs treat fluorescent lamps by altering their volume and physical form, and in accordance with 40 CFR 273.11 and 273.31, the treatment of universal waste lamps is prohibited. In addition, 40 CFR 273.81 outlines the factors for a state's adoption of a hazardous waste as universal waste, which includes improving implementation of and compliance with hazardous waste requirements and improving the stewardship of the waste. Based on the results of EPA's DTC Study, we fail to understand how DTCs meet these UWR objectives. Furthermore, the document does not clearly present how crushed lamps should be managed under various real world scenarios.

The draft Fluorescent Lamp Recycling document describes proper DTC best management practices by qualified and trained operators. During field observations in the NEWMOA region, state staff has often noted units being used with significant damage, poor or improper maintenance, and sloppy management practices. We believe it is unrealistic to expect DTCs to be operated under conditions presented in the BMPs and the results of the DTC Study clearly show significant potential for harmful mercury exposure to the operators of these units and to other individuals in buildings where DTCs are operated.

The document needs to provide guidance on spent DTC filter management. Waste filters would likely fail TCLP and thus would be hazardous waste if disposed. The document should encourage the reclamation of the mercury in the filters.

We believe it is not EPA's role to offer advice on purchasing DTCs and the section "Choosing a DTC Device" under Section VII should be removed. Additionally, EPA should not encourage outdoor DTC use in the "Identifying/Establishing a DTC Use Location" section. Inclusion of this information gives the impression that emitting mercury into the outside environment is acceptable.

The original fluorescent lamp packaging is not adequate to prevent breakage. If the original packaging is used to store and transport spent lamps and the lamps break in the packaging, we are particularly concerned that carriers may be exposed to unacceptable levels of mercury vapors. The original packaging often appears to be barely adequate to prevent breakage of new lamps, and the packaging is usually compromised when it is opened to remove the new lamps and then stored (possibly for multiple years) prior to re-use to contain the spent lamps (i.e., inserts are lost, packaging is torn, and seals are broken). We urge EPA to work with stakeholders in order to develop proper packaging standards for storage and transport of waste lamps so that breakage can be minimized.

Finally, we urge EPA to develop federal guidance on incidentally broken lamps. There is variation among the states concerning the acceptable quantity of broken lamps for inclusion as Universal Waste. A standard number of lamps, presented as a guideline, would be helpful.

In closing, we believe proper and safe management of spent fluorescent lamps is essential for minimizing mercury exposure to humans and the environment. If you have any questions about

this letter, please contact Terri Goldberg, NEWMOA, (617) 367-8558 x302 or tgoldberg@newmoa.org. We look forward to working with EPA on this important topic.

Sincerely,

Gary Gulka
NEWMOA 2009 Chairperson

NEWMOA is a non-profit, nonpartisan interstate association that has a membership composed of the hazardous waste, solid waste, waste site cleanup and pollution prevention program directors for the environmental agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NEWMOA was established by the Governors of the New England states as an official regional organization to coordinate interstate hazardous and solid waste, and pollution prevention activities and support state waste programs. NEWMOA's mission is to develop and sustain an effective partnership of states to explore, develop, promote, and implement environmentally sound solutions for the reduction and management of materials and waste, and for the remediation of contaminated sites, in order to achieve a clean and healthy environment.