

US EPA ARCHIVE DOCUMENT

9441.1995(23)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

June 22, 1995

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Thank you for your letter of March 27, 1995, to the Office of Solid Waste, requesting confirmation that your fluorescent tubes are nonhazardous based on the data which you provided. EPA regulations require persons generating solid wastes to determine whether the solid waste is hazardous. 40 CFR 262.11 sets forth the generator's responsibility to determine whether his waste is hazardous, including determining whether the waste exhibits one or more of the characteristics identified in Subpart C of Part 261.

When a generator makes a hazardous waste determination using the Toxicity Characteristic Leaching Procedure, EPA regulations require that the generator use a "representative sample." A "representative sample" is defined at 40 CFR 260.10 to mean a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole. After examining your sample analysis data, it appears that you tested only one spent fluorescent tube to conclude that all of your spent fluorescent tubes generated on-site are nonhazardous. If our assumption is correct, we believe that the data provided may not meet this definition. Based on one tube, we have no way to assess the variability between fluorescent lamps (new versus old, different manufacturers, different wattage, etc.). A representative selection of lamps randomly chosen should be analyzed to make this determination. I have enclosed chapter nine of SW-846, EPA's "Test Methods for Evaluating Solid Waste." This chapter gives guidance on how to develop a sampling plan to obtain a representative sample of wastes.

Under Section 3006 of RCRA individual states can be authorized to administer and enforce their own hazardous waste programs in lieu of the Federal program. Indiana is an authorized

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state, therefore you should contact Mr. Dave Berry of the Indiana DEM at (317) 232-4417 to discuss your request. Mr. Berry works in the Hazardous Waste Management Branch and is the state contact person on spent fluorescent tubes issues. He may be able to assist you in developing an appropriate sampling plan. Ollie Fordham is also available to discuss sampling. He is in the Methods Section of EPA's Technical Assessment Branch at (202) 260-4778.

You may be interested to know that the Agency recently promulgated the Universal Waste rule, May 11, 1995 (60 FR 25492), which facilitates the environmentally sound collection and management of hazardous waste batteries, certain hazardous waste pesticides, and mercury-containing thermostats destined for recycling or proper disposal. This rule streamlines regulatory requirements for generators, transporters, and interim storage facilities that manage the aforementioned wastes. The universal waste rule also provides additional flexibility in that States can add other wastes such as spent fluorescent tubes to their state universal waste program, if they so choose. I have enclosed a copy of the Universal Waste final rule. For further information on the universal waste rule, contact Kristina Meson at (202) 260-5736 or Bryan Grace at (202) 260-9550 of my staff.

Sincerely,

Mike Petruska, Chief  
Regulatory Development Branch

Enclosure(2)