

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

June 8, 1994
Mitchell Dong, President
FulCircle Ballast Recyclers
168 Brattle Street
Cambridge, MA 02138

Dear Mr. Dong:

I am writing to confirm your interpretation of the applicability of 40 CFR 261.33 to the disposal of diethylhexyl phthalate-containing capacitors from fluorescent light fixture ballasts.

We understand the purpose of your process is to reclaim metal, not diethylhexyl phthalate (DEHP), and that DEHP is disposed of as part of the used capacitor without any attempt at recovery of DEHP. DEHP is listed as EPA Hazardous Waste No. U028 when it is an unused commercial chemical product being discarded or intended to be discarded. In this case, since the diethylhexyl phthalate has been used, it no longer meets the listing description and, therefore, is not the listed hazardous waste.

However, if DEHP were to be reclaimed for reuse as DEHP, then 261.33 would apply to any discarded or spilled regenerated DEHP. Also, please note that those portions of the ballasts and capacitors being discarded may be regulated as hazardous waste under the Resource Conservation and Recovery Act (RCRA) if they meet any of the characteristic hazardous waste criteria in 40 CFR 261.20 through 40 CFR 261.24.

In addition, States authorized to manage the RCRA program can require more stringent management standards. I recommend you contact any State concerned to determine the applicability of State requirements.

If you have any further questions, please call Wanda Levine of my staff at 202-260-7548.

Sincerely,

William F. Brandes, Chief
Waste Identification Branch

FaxBack # 11842