



Department
for Environment
Food & Rural Affairs

Nobel House
17 Smith Square
London SW1P 3JR

T 08459 335577
helpline@defra.gsi.gov.uk
www.defra.gov.uk

Redacted
Mercury Recycling Limited
Mercury House
17 Commerce Way
Trafford Park
Manchester
M17 1HW

10 July 2014

Dear Mr Redacted

Thank you for your email of 18 June to Defra and Defra setting out your views about the suitability of the waste exemption from environmental permitting, known as T17, which allows the crushing of waste fluorescent tubes at the place of production prior to collection for recovery. I am replying as the policy lead responsible for waste regulation.

I am aware that the issues raised in your email have been discussed with the Environment Agency and other policy colleagues at considerable length. We recognise that exempt waste activities such as those carried out under the T17 exemption can pose a risk to the environment if they are not carried out properly. It is therefore important that the operation is carried out in accordance with the general rules laid down for the exemption which seek to mitigate the risk posed by each type of activity. Exempt waste operations are not “uncontrolled” activities as mentioned in your email. In fact having an exemption does not free an operator from all regulatory control as there is still an obligation on the operator to ensure that the exempt activity does not pollute the environment or harm human health. The Environment Agency has a duty to carry out inspections to ensure compliance with the general rules of the exemption. It uses an intelligence-led approach to inspection and focuses on dealing with those activities posing the greatest risk to the environment and communities.

The Environment Agency does not have evidence to indicate that fluorescent tube crushing is having a negative impact on air, land and water or that they are illegal activities. As you are aware, the 2011 HSE report on fluorescent lamp crushing in mobile and fixed units whilst highlighting some concerns, recognised that the relevant exposure limit values could be met with the proper controls in place and we have no grounds to challenge this conclusion.

In light of your concerns, we need to gain greater understanding of the fluorescent tubes treatment and recycling market in England; any issues associated with the market and how these might best be addressed. If independent evidence shows that that treatment of waste fluorescent tubes before collection for recovery constitutes a heightened risk than was previously envisaged, we will address this and amend the exemption accordingly. In



the meantime, we are working with the Environment Agency to consider the case for changes to the current waste exemption. Any such change would consider whether the exemption meets the principles set out in government guidance. These can be found at <http://archive.defra.gov.uk/environment/policy/permits/documents/ep2010exemptwaste.pdf>

An evidence steering group including the Environment Agency, Defra and Public Health England has been formed to assess the evidence and, if necessary, obtain additional data on this matter. The HSE has also been consulted. The group will ensure that any recently published relevant evidence has been identified and reviewed. Some modest funds have also been earmarked to conduct any new research required to answer unresolved questions, if the steering group believes that such an evidence activity is required and proportionate.

We agree that there is an argument that lamp crushing is a form of treatment. This position is not completely clear because the activity takes place prior to, and at a different location to, the main phase of treatment at a different location. But in light of the concerns you have raised, we will consider how to make it clearer that operators under the T17 exemption are bound to comply with the technical requirements laid down in Annex VIII of the WEEE Directive, such as the provision of impermeable surfaces where appropriate and weatherproof covering for appropriate areas.

It should also be recognised that the crushed material still needs to be processed at a permitted site in order to separate the metal, glass and powder to ensure full treatment and compliance with the BATRRT guidance. We do not believe that mobile crushing is contrary to the existing BATRRT guidance. However, we are currently reviewing the guidance and will consult later this year. The proposed consultation will ensure that there is early engagement with stakeholders so that they are aware of proposals and subsequently have the opportunity to contribute to the formation of policy.

We are not complacent about the need to continually ensure that waste exemptions remain fit for purpose. We will continue to work with and encourage the Environment Agency to review the effectiveness of its approach to the enforcement of waste controls. I am clear that our role in delivering the solution is through effective policy. We will use evidence from the Environment Agency and industry to continue to develop a regulatory framework that helps prevent harm to human health and the environment.

Yours sincerely

Redacted
Waste Regulation and Crime

CC:Environment Agency

