

September 7, 2017

Madeleine Bugel, Program Manager
Lighting Systems and International Business
National Electrical Manufacturers Association
1300 North 17th Street | Suite 900
Rosslyn, VA 22209

Re: NEMA 2017 Plan Renewal

Dear Ms. Bugel,

Thank you for the submission of the modified NEMA Plan received on April 17, 2017 which was posted with a 30-day deadline for comment by June 9, 2017. The Agency has compiled the comments received into the attached responsiveness summary. In general, the comments surround the effectiveness of NEMA's lamp collection and recycling program and outreach needed to educate not only the public about the need to recycle mercury bulbs, but also collection sites on proper and safe handling. After careful consideration of the comments, the Agency requests that NEMA make amendments to the Plan as follows:

A. Page 3 & 4 – Executive Summary

1. Program dates in the plan may need modification since it is already past July 1st.
2. Public outreach (#3) in the plan identifies general outreach efforts.
 - a. This section and pages 11 & 12 under Consumer Awareness that refer to outreach, should be expanded to include specific outreach that will be provided by the program and timeline by which each will occur.
 - b. This section of the plan identifies that the program will provide access to the EPA's resources for the appropriate handling of mercury-containing lamps. The plan must be amended to ensure that the program will also provide applicable state guidelines regarding the safe handling of mercury-containing lamps.
3. Compliance with appropriate environmental standards (#4) in the plan states "The manufacturers on whose behalf this program is submitted will coordinate education and outreach activities to promote public awareness of the program and to inform consumers of their legal obligation to recycle waste lamps in Vermont." This statement identifies that the manufacturers themselves will coordinate efforts to promote public awareness. It is our understanding that NEMA will be coordinating these efforts. The plan needs to clearly explain who will coordinate this education.

B. Page 5 - Participating Manufacturers

1. First sentence in first paragraph and first sentence in third paragraph in the plan both reference “households”. This reference must be removed as the law defines “covered entities” in §7151 as any person and does not limit collection to households.
2. The second paragraph states that “NEMA is not functioning as a Stewardship Organization”. In accordance with 10 V.S.A. §7154(a) only manufacturers individually or as participants in a stewardship organization can submit a lamp collection plan. If manufacturers are joining together to submit this plan, some type of documentation should be submitted with the plan such as; a signed statement from each manufacturer represented in Appendix A of the plan identifying their assumption of the responsibilities, obligations, and liabilities under 10 V.S.A., Chapter 164A; or a Stewardship Organization should be listed as identified in footnote 1 at the bottom of page 3 of the plan.

C. Page 6 – Plan Program Operations

1. Comments #1, #2, and #3 (Page 1) of the Responsiveness Summary, highlight difficulties municipal/district collection sites are having with NEMA’s mail-back collection program, specifically issues with mail back and Fedex pick up, a need for a bulk pick up option for large volume locations, and concerns with reimbursement. NEMA’s plan and collection program must serve and cover recycling and transportation costs for both large and small municipal collection locations, whether NEMA’s collection program is mail-back or through a pick up agent. The current mail-back service is labor intensive, especially for those locations with many lamps to manage. NEMA must work with Veolia to provide bulk packaging, bulk pick up, a broader selection of box types, or alternative collection systems to meet the collection needs of municipalities (districts and towns). The pickup agent under the NEMA plan must be able to adequately pick up from facilities during their hours of operation.

During our meeting, NEMA agreed to check with Veolia about bulk pick up options and improving Fed Ex pickup to occur during a location’s hours of operation. The Agency recommends that reimbursement be more frequent than quarterly as some districts/municipalities have requested more frequent payment. During our meeting NEMA agreed to look into more frequent reimbursement.

2. The fourth bullet in this section of the plan states that the recycler will provide information on handling and practices for compliance with the universal waste rules. Vermont statute §7154(a)(3)(C) identifies that the plan must have an outreach component that notifies the public of the special handling considerations associated with mercury-containing lamps. NEMA and the state agreed during our meeting that joint letters would be written to provide this information to both retail and municipal/district collectors on proper lamp management, guidance on breakage, and a reminder about the 10-lamp limit. In addition the plan should include a commitment by NEMA or it’s recycler to provide at least annual information on safe handling of lamps to collectors and how this information will be provided, such as through correspondence letters and mailed materials. Any such guidance from either party on safe handling should provide details about proper handling of broken bulbs rather than just referencing Vermont law.

D. Page 8 & 9 – Requirements for Collection Sites

1. This section should make reference to the participation agreements as part of the plan.

2. 10V.S.A.7154(a)(2)(B) states that the plan “at minimum, has not less than two collection facilities in each county” the plan must include a list of current collectors and an indication of the county in which each is located to identify that this provision of the law has been met.

E. Page 11 – **Processing of Waste Lamps** - The plan identifies how the lamps received by the recycler will be moved through the recycling chain. The third bullet of Planned Program Operations identifies the recycler’s compliance with all local, state, and federal law. The Agency recommends that the plan provide the vendor’s full recycling process including how residuals from broken lamps are managed and how the mercury is captured. This information would be valuable to share with the districts and municipalities who are concerned about the proper management of the mercury-containing lamps that they collect.

1. **Communication Methods** – 10 V.S.A. §7154(a)(3) outlines minimum outreach efforts that must be included in the collection plan. NEMA must modify the plan as follows:
 - a. I. Website – Review of lamprecycle.org revealed that the website and all materials including collector participation agreements, list of participating manufacturers, and outreach documents were outdated. NEMA advised in a recent meeting that the website will be updated, but did not identify a timeframe. The plan should include a commitment to completing these website updates within 3 months and keeping the website current on at least a quarterly basis thereafter. In addition, §7154(a)(3)(B) requires manufacturers notify the public of the location of collection points. Lamprecycle.org currently links to the DEC web site for the list of collectors. Since NEMA has participation agreements with its collectors and monitors data on lamp collections, it should maintain up-to-date information on its website of the active Vermont collection sites. NEMA must modify the plan to include a commitment to post a collector list on lamprecycle.org and update the list and the website at least quarterly.
 - b. II. Retail collateral – The plan indicates that there is signage available at no cost to retailers and can be ordered from the lamp recycler. There is no link to current retail signage on the website. NEMA must at minimum include in its plan a link to NEMA’s website where the most recent signage (developed with DEC showing various types of mercury-containing lamps) is advertised as available upon request to retail collection sites and NEMA should explain how it will notify retailers of the availability of this signage.
 - c. III PSA – the new plan states the Program will develop an audio PSA with assistance from DEC. DEC is looking forward to developing an updated PSA that identifies the program as collecting all mercury-containing lamps, the program limits, and pointing to a list of current collection sites on the lamprecycle.org website. The Agency encourages NEMA to consider paid audio advertising as well as free PSAs.
 - d. IV Advertising – The plan’s advertising campaign is vague. The NEMA plan must be revised to specify the types of media that will be implemented by the program including outreach for the general public, guidance documents and information for collectors and retailers, and identification of direct distribution methods for printed materials as well as on-line access and a timeline showing the frequency all outreach efforts.

G. Page 12 to 13 – **Annual Report**

1. 10 V.S.A. §7153(a)(2) states that the annual report must contain “the number and type of mercury-containing lamps collected and the collection facility from which the lamps were collected.” Municipalities and districts need these numbers for reporting by calendar year. The

Agency recommends that NEMA provide collection data on-line and searchable so numbers can be easily accessed by facilities or change program reporting to calendar-year.

2. §7153(a)(3) states that the annual report must contain “An estimate of the number of mercury-containing lamps available for collection and the methodology used to develop this number”. NEMA’s plan explains that this estimate is difficult to determine because of the potential for commercial CFL lamps to be acquired through out-of-state wholesalers. In the past NEMA has submitted an estimate of available mercury lamps with their annual reports. The methodology and estimates used in these reports is still acceptable to the Agency. NEMA’s plan must continue the commitment to providing available lamp estimates within annual reports.
3. Page 14 - **Plan Audit** §7153 requires a third-party audit of the program every five years. The timing for the submission of the audit was identified in the Guidelines for Extended Producer Requirements for Collection and Recycling of Mercury Lamps (Guidelines) developed by the Agency in 2011. The audit submission by NEMA will occur on September 1, 2017, well after the anniversary date of the plan. **The Agency reserves the right to request NEMA make modifications to the plan should the audit identify issues with the mercury lamp collection and recycling program.**

H. Attachments to Plan – Participation Agreements

1. The top of page 6 of the plan under the heading “Covered Products” identifies lamps accepted by the program. This list does not coincide with the list that is included in the participation agreement. The plan and the participation agreements must be modified for consistency and all should coincide with the definition of mercury-containing lamps in §7151.
2. The Agency recommends that the participation agreements include or at least reference the following items in the NEMA collection plan:
 - a. A comprehensive list of lamps accepted and not accepted by the program and
 - b. Specific management standards for lamps including incidental breakage by the collector and broken lamps received by a collection location.
3. The participation agreements require that a collector obtain information from anyone who brings in more than 25 CFLs. The law does not limit the number of CFLs collected by a location nor does the law require that collectors monitor who brings in lamps to the program. This requirement must be removed from the participation agreements.
4. The municipal agreement (at the top of the second page) states “The Participant maintains a storage facility for waste CFLs and waste general purpose lamps that is secure, weather tight and complies with all local, state, and federal regulations. Such a facility shall hold a current Solid Waste Management Certification under §6-303 of the Vermont Solid Waste Management Rules and comply with the Facility Management Plan and facility operational standards of the Certification.” The Agency requests that the second sentence be eliminated since retailers and municipal locations are not required to obtain a Certification for mercury lamp collection.

Thank you for your patience and for your willingness to make modifications that can improve collection and recycling of mercury lamps in Vermont. We look forward to your response.

Sincerely,



Josh Kelly

Materials Management Section Chief