



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

July 10, 1992

Mr. William C. Osborn
Lighting Recycling, Inc.
115 Buckminster Road
Brookline, MA 02146

Dear Mr. Osborn:

The U.S. Environmental Protection Agency - Region I (EPA) has received and reviewed Lighting Recycling, Inc.'s (LRI) proposal for a mercury-bearing lamp recycling facility, dated May 21, 1992 (Proposal). EPA offers the following conclusions and recommendations regarding the Proposal.

EPA has determined that if the LRI facility accepts hazardous waste fluorescent lamps they would, when legitimately recycled, be considered a "recyclable material", as defined in 40 CFR § 261.6. The Proposal, as received by EPA appears to be a legitimate and promising means of recovering glass, aluminum and mercury from spent fluorescent and other mercury-bearing lamps.

Again, as stated in a previous letter on May 11, 1992, 40 CFR § 261.6(c)(2) states that owners or operators of facilities that recycle recyclable materials without storing them prior to recycling are subject to the notification requirements under section 3010 of RCRA, sections 265.71 and 265.72 of 40 CFR (manifest discrepancies), and the air emission standards set forth in subparts AA and BB of part 264 or 265.

EPA has determined that, based upon your proposal, since the recyclable materials accepted at your facility are introduced directly into process as received, no storage prior to recycling is occurring. Therefore, 40 CFR § 261.6(c)(2) does apply to LRI's proposed facility. LRI's proposed facility would not be subject to the hazardous waste permitting requirements of 40 CFR Part 270.

Facilities that store recyclable materials prior to recycling are subject to the requirements outlined in 40 CFR § 261.6(c)(1). Therefore, it is imperative to ensure that the facility, as designed and operated, can continue to effectively introduce materials into process as received without storage, or cease the acceptance of any recyclable materials in lieu of this occurring. Storage of recyclable materials prior to actual recycling would subject LRI to 40 CFR § 261.6(c)(1).



LRI should:

- 1) Submit to EPA and the Massachusetts Department of Environmental Protection (MA DEP), a notification in accordance with Section 3010(a) of the Resource Conservation and Recovery Act (Notification). This should be done no less than sixty (60) days prior to the day that hazardous recyclable materials are first received at LRI's facility;
- 2) Ensure that the LRI facility complies with the manifesting system reporting and discrepancy requirements of 40 CFR §§ 265.71 and 265.72 (Becoming a designated facility would also necessitate LRI being issued a hazardous waste identification number by the MA DEP);
- 3) Ensure that the LRI facility, as constructed and operated is, at all times, in compliance with subparts AA and BB of 40 CFR part 264 or 265, and;
- 4) Submit, with its Notification, a detailed description of the steps that LRI will take to ensure that hazardous recyclable materials can and will be safely and effectively processed without prior storage. This description should include any agreements that LRI has made with generators of spent hazardous lamps, contingency plans that outline efforts that will be taken in the event of routine or unforeseen shutdowns and any other applicable actions that LRI will take to ensure compliant operation.

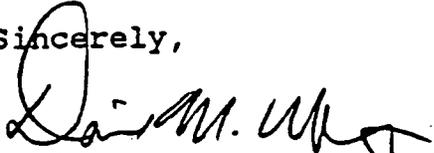
You may, if you desire, assert a business confidentiality claim covering part or all of this description, in the manner described by 40 C.F.R. Section 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Information covered by such a claim will be disclosed by EPA only to the extent, and by the means of the procedures set forth by 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

In addition, materials (i.e. glass, mercury, aluminum, etc.) that have been reclaimed from hazardous recyclable materials may require a variance from classification as a solid waste, pursuant to 40 CFR §§ 260.30(c) and 261.31(c). Though this issue does not directly affect the issue of storage of recyclable materials prior to recycling, it may, however, require LRI to demonstrate the degree to which materials have been reclaimed and the marketability of such materials. EPA Region I is currently examining this issue in more detail and will determine if, in fact, a solid waste variance is required of LRI.

You should also be aware that the above conclusions and recommendations pertain only to the federal EPA requirements under the Resource Conservation and Recovery Act (RCRA). Many aspects of the RCRA program are delegated to and reflected in the MA DEP regulations in its 310 CMR 30.000 codification.

Therefore, it is inevitable by virtue of the RCRA authorization program, that there will be issues, such as those that have been discussed in this and previous letters that will require approvals and interpretations by either the EPA, MA DEP or both. Depending upon the authorization status of Massachusetts, EPA's conclusions and guidance on interpretive issues do not necessarily supersede those of the MA DEP. If you have any questions or concerns regarding the technical issues of this matter, please contact John Gauthier of my staff at (617) 573-9629. Questions regarding the RCRA authorization status of Massachusetts should be directed to Gary Gosbee, Chief of the Massachusetts Waste Regulation Section, at (617) 573-5740.

Sincerely,



David M. Webster, Chief
ME & VT Waste Management Branch & RCRA Policy Lead

cc: G. Levy
RCRA Section Chiefs
N. Willard
S. Dreeszen, MA DEP