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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C. 20460
June 5, 1995

Mr. Steven O. Jenkins, Chief
RCRA Compliance Branch, Land Division
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, AL 36130-1463

Dear Mr. Jenkins:

Thank you for your letter dated March 30, 1995 requesting guidance from the U.S. Environmental Protection Agency on the crushing of mercury-containing lamps. In your letter, you reference two documents from our Agency that appear to provide conflicting guidance on the status of lamp crushing under RCRA regulations.

The first document referenced is a letter dated July 28, 1993 from Jeffery Denit, Acting Director, and Office of Solid Waste. This letter clarifies that the crushing of fluorescent lamps, as a necessary step of a legitimate recycling process, is exempt under 40 CFR 261.6(c), and therefore would not be subject to RCRA Subtitle C regulatory requirements except as specified in 40 CFR 261.6(d). The letter further clarifies that the crushing activities may occur at the generator's facility, or at the recycler's facility and remain exempt under 40 CFR 261.6(c). The Agency had considered an interpretation of 261.6(c) where the recycling would have to take place at the same site as the crushing, but determined that as long as recycling will occur, it does not have to be at the same site. Under this interpretation, the person claiming the exemption (the generator) is responsible for ensuring that the crushed bulbs do end up being recycled, not just disposed of. This remains the current regulatory status of lamp crushing activities that are a part of a legitimate recycling process.

The second document referenced is the preamble to the July 27, 1994 proposed rule regarding management standards for mercury-containing lamps. In this proposal, EPA requested comment on whether generators or consolidation points should be allowed to intentionally crush lamps to minimize volume for storage or shipment and what, if any, standards should be imposed to protect against mercury releases during crushing or the subsequent management of crushed lamps. This section of the preamble is requesting comment on appropriate management standards for mercury-containing lamps under the proposed Universal Waste option. Management of lamps under the Universal Waste rule would provide streamlined requirements for persons generating, transporting or collecting hazardous waste lamps. As such, many of the controls that are in place under the current regulations for hazardous waste lamp management (e.g., tank and container requirements under 40 CFR part 264 or notification requirements under 40 CFR part 264.11) may not be applicable under the Universal Waste rule. Therefore, the request for comment on whether lamp crushing should be allowed and what standards should be imposed to protect against mercury releases during crushing refers to such management under the proposed Universal Waste scenario only.

At present, the Agency is still considering the two options presented in the proposed rule for spent fluorescent lamps and has received over 300 comments on the proposed rule. Many of the comments received, however, addressed technical concerns related to the risks involved in the handling and disposing of these lamps (e.g., air emissions, leachability). Because of these concerns, the Agency will need to devote the proper resources to analyze and resolve these technical issues. The Agency notes that in light of the resources needed to finalize a rulemaking for fluorescent lamps and the President's initiative for regulatory reform, the Agency is evaluating this rulemaking along with a range of other projects in setting priorities for the Office.

On May 11, 1995, the Agency promulgated the universal waste rule (60 FR 25492). This final rule streamlines requirements for generators, transporters, and interim storage facilities who manage one or more of 1) hazardous waste batteries 2) certain hazardous waste pesticides and 3) mercury containing thermostats (as discussed above, fluorescent lamps are being considered separately under the July 27, 1994 proposal). The universal waste rule also provides additional flexibility in that States can add additional wastes or waste categories to their own State universal waste rules if they so choose. Therefore, a State may choose to add fluorescent lamps to their State list of universal wastes. In so doing, a State must decide what waste management requirements are appropriate to be added to the universal waste regulations that would protect human health and the environment from risks posed by the waste during accumulation and transport. Such management requirements may include volume reduction incident to collection activities and should be designed to ensure that these management practices do not dilute the hazardous constituents or release them to the environment. After researching and considering the issue, a State may decide that crushing be allowed as appropriate management if the crushing process was performed in a controlled unit which did not allow any releases of mercury or other hazardous constituents to the environment.

If you have further questions regarding how the recycling and storage requirements apply to this situation or about the mercury-containing lamps proposal, please contact Kristina Meson of my staff at (202) 260-5736. Thank you for your interest in the safe recycling of hazardous waste.

Sincerely,
Michael Petruska, Chief Regulatory Development Branch

Attachment

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
January 31, 1995

Mr. Michael Shapiro, Director
Office of Solid Waste
United States Environmental
Protection Agency
Washington, D.C. 20460

Dear Mr. Shapiro:

The Alabama Department of Environmental Management (ADEM) has recently received correspondence from the Monsanto Company, Anniston Plant, requesting guidance on the regulatory status of crushing fluorescent lamps (copy enclosed). Also, attached to this request was guidance dated July 28, 1993, from then Acting Director, Jeffery D. Denit, of your Office.

The July 28, 1993 guidance states, in part, "...If crushing fluorescent lamps that fail the toxicity characteristic is a necessary part of a legitimate recycling process, it would not be subject to RCRA Subtitle C regulatory requirements except as specified in 40 CFR 261.6(d). The crushing activities may occur at the generator's facility, or at the recycler's facility and remain exempt under 40 CFR 261.6(c)". The letter goes to address applicable storage requirements and OSHA standards, and the Authorized states ability to regulate this activity, under a more stringent interpretation.

As you know, the July 27, 1994, Federal Register Proposed Rule (59 FR 38288), outlines management standards that may be adopted for mercury-containing lamps. The first option would be to exclude mercury lamps from regulation as a hazardous waste and the second option would be to add them to the Universal Waste Proposal (February 11, 1993, 58 FR 8102).

Contained within the July 27th, Federal Register at Section IV (B)(2), next to the last paragraph states in part, "...The Agency also requests comment on whether generators or consolidation points should be allowed to intentionally crush lamps to minimize volume for storage or shipment and what, if any, standards should be imposed to protect against mercury releases during crushing or the subsequent management of crushed lamps. The proposed universal waste management system includes prohibition on treatment (crushing is considered treatment) of lamps at the generator, transporter and consolidation points." The ADEM has also interpreted that crushing of lamps is considered treatment unless the crushing device is capable of completing the recycling process and recovering the mercury as a product.

It would seem that, unlike the recycling exceptions provided for with lead-acid batteries at 40 CFR Part 261.6, the intentional crushing of characteristically hazardous fluorescent lamps to physically separate, reduce in volume, or make them more amenable for transportation, storage, or recovery meets the basic definition of treatment under 40 CFR Part 260.10.

The Department understands the need for establishing legitimate recycling facilities for processing mercury-containing lamps as an alternative to disposal. However, in order to be equitable to all recyclers of hazardous waste ADEM does not believe that a less stringent management system exists under the current Federal regulatory structure. At this time, ADEM is seeking concurrence from EPA on this issue in order to provide consistent guidance to generators and other facilities that wish to commence lamp crushing activities, and which do not reclaim mercury values as a final product. This is an important regulatory issue and we would appreciate a response at your earliest possible opportunity.

Should you have any questions regarding this matter, please contact Mr. Michael B. Jones at (334) 271-7989.

Sincerely,
Steven O. Jenkins, Chief
RCRA Compliance Branch
Land Division