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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

December 1, 1992

Mr. William M. Guerry, Jr.
Collier, Shannon, Rill & Scott
3050 K Street, N.W., Suite 400
Washington, D.C. 20007

Dear Mr. Guerry:

As a followup to our meeting with you and representatives of Glassification International Limited (GIL) on September 22, 1992, EPA has considered the information you have provided on the GIL glassification process for electric arc furnace (EAF) dust or K061 when the EAF dust is a hazardous waste. Based on the information that you have provided us, EPA understands that GIL utilizes EAF dust from steel mills to produce a glass frit which is then sold for use as abrasive blast, and as an ingredient in making roofing granules, glass ceramic and ceramic glaze. Throughout our discussions, the main issue regarding the regulatory status of the GIL process and glass frit product has been whether EAF dust incorporated into GIL glass frit meets the definition of a solid waste (and therefore also a hazardous waste, i.e., K061) under the Resource Conservation and Recovery Act (RCRA).

You specifically sought EPA Headquarters' concurrence that these uses are excluded from the definition of solid waste under Section 260.2(e). The focus of this determination is the ultimate end use of the secondary material or the product containing the secondary material. When secondary materials or products containing secondary materials are applied to or placed on the land in a manner that constitutes disposal, the material or the product containing it is a solid waste and also a hazardous waste (see 40 CFR Sections 261.2(c)(1) and 261.2(e)(2)(i)). Products used in a manner constituting disposal are not eligible for the exclusion.

As mentioned above, GIL intends to sell its glass frit for use as abrasive blast, and as an ingredient in producing roofing granules, glass ceramic and ceramic glaze. Regarding abrasive

blast, EPA believes that in general this end use is not applied to or placed on the land in a manner constituting disposal. The other end uses (roofing granules, glass ceramics, ceramic glaze) are also not typically applied to or placed on the land in a manner constituting disposal.

So, when EAF dust is legitimately used as an ingredient to make a product that is not used in a manner constituting disposal (e.g., glass frit used to produce abrasives, roofing granules, glass ceramics or ceramic glaze), it is not a solid waste under RCRA. Therefore, when producing glass frit for the end uses mentioned above, the GIL process would not be subject to RCRA permitting requirements.

Please be aware that under Section 3006 of RCRA (42 U.S.C. Section 6926) individual states can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. When states are not authorized to administer their own program, the appropriate EPA Region administers the program and is the appropriate contact for any case-specific determinations. Please also note that under Section 3009 of RCRA (42 U.S.C. Section 6929) states retain authority to promulgate regulatory requirements that are more stringent than federal regulatory requirements.

Thank you again for your interest in this matter. If you have further questions, please contact Mike Petruska of my staff at (202) 260-8551.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste