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HAZARDOUS WASTES THAT ARE RECYCLED, HANDLING
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OCT 8 1986

Honorable John Glenn
United States Senate
Washington, D.C. 20510

Dear Senator Glenn:

Thank you for your September 8, 1986, letter enclosing correspondence from Mr. Goodman G. Liber. Mr. Liber raised several points concerning the Environmental Protection Agency's (EPA) regulation of hazardous wastes that are recycled.

The Agency is aware that recycling of hazardous waste is increasing and encourages this practice when it provides environmental benefits and protects human health. We are attempting to investigate what impediments exist to further recycling and are trying to identify alternatives to alleviate these impediments. The EPA and the States could have potential roles in assisting organizations, individuals, and, specifically, small businesses interested in recycling. In addition to evaluating various methods of recycling, EPA encourages the recycling of hazardous waste for those practices that minimize risk relative to other methods of managing hazardous waste.

For your information, persons transporting and storing hazardous wastes before recycling are similar to persons transporting and storing hazardous wastes before disposal: there is nothing about the waste that makes it so valuable that safe handling is assured absent regulation. A company's decision on how carefully wastes are handled before recycling activates a range of factors -- principally the value of the wastes being recycled and the value of the end products of recycling versus the cost of purchasing additional raw materials, the profit margin of the facility, and the cost of improving the integrity of the facility. Unless the wastes are extremely valuable, there is no incentive to properly manage the waste. In fact, there have been a large number

of mismanagement incidents relating to hazardous waste being recycled; many of these sites are on the Superfund National Priorities List. Therefore, we believe such regulation is necessary.

It should be noted, however, that such regulation only applies to those wastes that are defined as hazardous under RCRA. To make this point clear, we included a provision in the regulations to ensure that the regulatory definition is not used in unintended contexts, for example to justify regulation of non-hazardous wastes. In addition, we specifically determined not to regulate scrap metal that is reclaimed, whether or not such scrap metal is defined as hazardous under RCRA. Thus, any scrap metal that is reclaimed is exempt from the hazardous waste regulations.

In 1984, as a result of the passage of the Hazardous and Solid Waste Amendments (HSWA), Congress established a national policy regarding the minimization of hazardous waste. Specifically, Congress states that the incineration of hazardous waste is to be reduced or eliminated as expeditiously as possible. The EPA believes that recycling can be a major component in fulfilling this national policy. Recycling as part of an overall waste minimization strategy is one way to eliminate the amount of waste requiring management at hazardous waste facilities.

EPA is currently preparing a report to Congress on waste minimization in which the Agency will evaluate options to further promote recycling. One option being evaluated is financial assistance for waste management activities. The report will be submitted to Congress on October 1, 1986.

In addition, I am enclosing a folder containing information compiled by EPA's Small Business Ombudsman office describing assistance programs for long-term financing of pollution control equipment. The information is intended primarily to help small businesses identify potential sources of financing for equipment. Several federal, state and private financing programs are available and are more briefly described in the folder. I hope this information will be useful to Mr. Liber.

Mr. Liber suggests the formation of a financial pool, funded largely by wealthy generators, to help recyclers comply

with RCRA regulations. As you may be aware, EPA does not currently have the statutory authority to establish such a pool. Mr. Liber's suggestion does have certain parallels with the Hazardous Substance Response Trust Fund better known as the Superfund. Congress intended that Superfund's resources be used to fund certain response actions, not provide assistance to business in regulatory compliance.

I hope that this information clarifies EPA's regulation of recycled hazardous waste. If I can be of further assistance, please let me know.

Sincerely,

Original Document signed

J. Winston Porter
Assistant Administrator

Enclosure