

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

July 17, 1992

Cheryl LaFleur, Vice President
Demand-Side Management
New England Power Service Company
25 Research Drive
Westborough, MA 01582-0099

Dear Ms. LaFleur:

I am pleased to respond to your letters dated April 23, 1992, and June 4, 1992 regarding the regulatory status of polyurethane foams containing CFC-11 when removed from residential appliances such as freezers and refrigerators outlined in your proposed Residential Appliance Recycling Program.

According to your proposal, the appliances to be collected will come from residential households. These materials are exempted by Title 40 of the Code of Federal Regulations (40 C.F.R.) at Section 261.4(b) under the Resource Conservation and Recovery Act (RCRA). Specifically, 40 C.F.R. § 261.4(b)(1) exempts from the hazardous waste management regulations, household wastes, including household wastes that have been collected, transported, stored, treated, disposed, recovered or reused. Any appliances collected from a residential source would qualify for this exemption and, therefore, would not be regulated as a hazardous waste.

For wastes that are conditionally exempt from RCRA, 40 C.F.R. § 261.2(f) requires that documentation be maintained to demonstrate that these waste meet the terms or conditions of the exemption. The proposed contractual arrangements outlined for collecting and managing the appliances, actual pick up at residential dwellings, assignment of residential account numbers and assignment of specific numbers to each collected unit for tracking purposes should assure that no commercial hazardous wastes are collected, and, therefore, meet the demonstration required under 40 C.F.R. § 261.2(f). As such, we would not consider your proposed operation to be managing hazardous wastes. This exemption remains valid provided no hazardous wastes are accepted, and compliance is maintained with the established contractual requirements or other appropriate notification or inspection procedures.

For clarification purposes, it should be noted that the hazardous waste exemption cited by New England Power Service Company (NEPCO) at 40 C.F.R. 261.4(b)(1)(ii) in its June 4, 1992 letter is not correct. This regulation pertains to facilities that burn household hazardous wastes. The reason for this requirement was to further clarify the household

waste exclusion provided by Section 3001(i) of RCRA pertaining to resource recovery facilities recovering energy from the mass burning of municipal solid waste.

Although NEPCO's proposed reclamation project would be exempt from RCRA, it will be subject to the new requirements of Section 608 of the Clean Air Act (CAA). Section 608 of the CM requires EPA to develop regulations that limit emissions of ozone depleting compounds (CFCs and HCFCs) during their use and disposal to the "lowest achievable level", and that maximize recycling. Section 608(c) also prohibits releasing ozone-depleting chemicals used as refrigerants into the atmosphere during the repair, servicing, and disposal of air conditioning and refrigeration equipment beginning July 1, 1992. These CAA requirements will be promulgated in 40 C.F.R. Part 82 (Stratospheric Ozone Protection), Subpart F, the Recycling and Emissions Reduction program.

Subpart F is expected to provide that all ozone-depleting chemicals used as refrigerants must be removed prior to destroying air conditioning and refrigeration equipment. In some cases, refrigerants will also have to be removed prior to servicing or repairing air conditioning and refrigeration equipment. There will be specific recycling standards for refrigerants removed from air conditioners and refrigerators.

Subpart F will also require contractor, reclaimer and technician certification. Contractors would have to certify that they have sufficient recycling and recovery equipment to perform on-site recycling or recovery, and would have to employ certified technicians. Reclaimers would be required to verify the purity of reclaimed refrigerants using industry-approved laboratory protocols. Persons servicing or repairing air conditioning and refrigeration equipment would be required to obtain certification by passing EPA-approved examinations.

The final rule is scheduled to be promulgated in approximately October, 1992. However, pursuant to Section 608 of the CAA, no one is allowed to release ozone depleting compounds used as refrigerants to the atmosphere while servicing, repairing, or disposing of air conditioning and refrigeration equipment after July 1, 1992. This requirement will be federally enforceable regardless of the status of the regulations. The schedule to comply with all other requirements of Subpart F will be established in the final rule.

The actual dismantling procedure should be evaluated to ensure the removal of CFC's from the refrigeration equipment is conducted in a manner to comply with this regulation. Note that the proposed rule will probably not require that ozone-depleting chemicals contained in insulation (as opposed to those used as refrigerants) be removed and recycled prior to disposal of the equipment. EPA will be soliciting comment on such proposals during the upcoming rulemaking. Still, Region I would certainly encourage NEPCO to develop and institute procedures to remove such ozone-depleting chemicals from insulation material for recovery and recycling. Such procedures would serve to avoid or minimize further venting of ozone-depleting chemicals to the atmosphere during the disposal of the refrigeration equipment.

For more information related to the provisions of the Clean Air Act, Fred Weeks of the Air, Pesticides and Toxics Management Division can be contacted at telephone number

(617) 565-3266 for assistance. If you have any additional questions concerning the Resource Conservation and Recovery Act, please contact either Kenneth Rota, or Elaine Stanley of the Waste Management Division at telephone numbers (617) 573-5759 or (617) 223-5515.

I would like to commend New England Power Service Company's efforts to help reduce and eliminate CFC's from the environment and for your positive contribution to improving the quality of life in New England.

Sincerely,

Julie Belaga
Regional Administrator

FaxBack # 11678