

INFORMATION DISCLOSED UNDER ENVIRONMENTAL INFORMATION REGULATIONS
DEFRA REF NO. RFI 6759

From: Mercury Recycling Limited redacted **Sent:** 24 October 2013 16:04

To: EA redacted

Cc: Defra redacted **Subject:** Exemption Review

Hi redacted

Thank you for your time and the information you provided earlier.

This response is on Mercury Recycling Ltd, Electrical Waste Recycling Group Ltd, Enlightened Lamp Recycling Limited and CarbonZone Limited.

Introduction

The context of this representation must be framed against the backdrop of conflicting interests of the WEEE PCS's and the lamp recycling industry. That is to say, that whereas the priority for Defra and the EA should be the attainment of the highest standards of treatment for the protection of human health and the environment, the overly dominant WEEE Producer compliance scheme in the sector, [redacted], has a priority is to attain the lowest operating cost which in reality means operating to the minimum standards required, regardless of the negative impacts on the environment. This is why [redacted] no longer contract out any work from their [redacted]" collection network to fixed installation operators, preferring to work with on-site crushing companies, who don't complain about [redacted]'s cheap and not fit for purpose national container solution, the extremely high levels of lamp breakages and mercury contaminated water present in their containers and the corresponding mercury vapour emissions to air which affect employees in the industry.

It is imperative that you understand that numerous representations have been made to BIS, EA and DEFRA, by the above noted fixed plant sites, regarding the matters of mobile lamp crushing and other lamp and mercury treatment issues, for the past several years. None of our concerns have been addressed and as a result [redacted] position has strengthened at the expense of the environment and, ultimately, the commercial viability of fixed plants.

Issues with the On-Site Crushing of Mercury Bearing Lamps and Tubes.

I am not sure that you were aware that it is unlawful to store or treat WEEE under the WEEE Regulations unless the following provisions are in place. In particular for any site to store or treat WEEE it must have as a minimum " impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers" which by default means that for sites where this operation takes place surfaces must be impermeable, drains need to be sealed and appropriate waterproof covering needs to be in place. I would therefore advise, based on these minimum standards, that at least 98% of on-site crushing activities are currently taking place illegally. I would ask the EA and Defra can you afford to turn a blind eye and allow this activity to continue at all?

FYI, there are thousands of T17 sites already approved, and based on our calculations, even with the reduced to a 1 tonne per day limit, we have calculated that crushers can process over 3 million lamps per annum on a single unregulated site i.e. 365 days x 8500 lamps per tonne = 3,102,500 lamps. This is in our view is incredulous!! Bearing in mind that one 6ft fluorescent tube can contaminate 30,000 litres of water beyond safe drinking levels.

We enclose an email our Technical Director sent to redacted last year which must be reviewed before this consultation takes place. In addition, I enclose many photographs of [redacted] corex pallets (which are based on thousands of sites across the UK and are predominantly serviced by on site crushing operators) with typical contents which include substantial lamp breakages and mercury contaminated water, as well as the EA's own treatment and Storage Guide for lamps. These pictures are representative of what we all received prior to redacted stopping working with fixed installation AATFs. Given the concerns expressed above about the lack of compliant storage provisions, you can appreciate that the obvious, significant water ingress into such containers, clearly full of broken lamps, will lead to phosphor powders and mercury being leached/washed into permeable ground surfaces and into uncontrolled drains thereby contaminating water courses. As an extremely ecotoxic substance, mercury escapes should not be treated so lightly.

I ask the EA and Defra based on environmental and H&S concerns, can it really be justified to make processing of this hazardous mercury bearing WEEE on unregulated sites an exempt activity? In addition to the above and the attached the following points also need very serious consideration.

- ☐ On-site crushing is a 'treatment' operation, not a storage operation. There are no other treatment exemptions in place in any other WEEE category that I am aware of (let alone a hazardous WEEE stream) that permits anything other than storage or refurbishment under defined conditions. Are the EA prepared to next allow the removal of yolks from CRT tubes, or compressors from fridges at the User site under an exemption? Why then is Government intent on making a stark exception for this hazardous WEEE stream? Fixed Installations for GDL treatment are subject to rigorous permit conditions, control and monitoring and H&S compliance measures. These sites require to invest heavily in order to comply with the conditions set forth in fixed installation permits. Why should mobile crushing operations be allowed to perform the same treatment processes on the same hazardous WEEE yet under 'light-touch' exemption conditions?
- ☐ Fixed installations are regularly audited/inspected to ensure compliance to permit and required to perform MCERTS accredited emissions testing. Can the EA confirm that Mobile Crushers are given the same comparable level of scrutiny at the dispersed User sites where crushing takes place and can the EA confirm that emissions testing to MCERTS standards is required of mobile crushers, especially given that the treatment takes place within uncontrolled environments. Had the operators of fixed plants known of the latitude afforded to mobile crushing, they would have invested in the far cheaper equipment of vans and mobile crushers and benefitted from low operating costs too.
- ☐ How is occupational exposure measured? Mercury Vapour Indicators provide indicative values and are known to be affected by air movement (& lack of) and humidity levels amongst other factors.
- ☐ Can the EA confirm that all on-site crushing takes place within enclosed spaces, or is the treatment process exposed to freely moving air, for example externally or partially externally?
- ☐ Can the EA confirm if the treatment process takes place internally in an enclosed environment, that adequate ventilation is available to prevent the potential build-up of mercury concentrations when allowing up to 8,500 lamps per day to be treated on a site. (Bearing in mind that the proposed exemption allows 8,500 lamps per 24 hrs, that this therefore is likely to take place within a condensed 8hr period at best, and that the exemption allows the process to be repeated daily).
- ☐ If adequate ventilation is available, is it acceptable to vent to air without any control, monitoring or abatement?
- ☐ In addition to the site conditions mentioned above, can DEFRA and the EA confirm that all User/Holder sites where crushing takes place conform to the conditions as set out in both the WEEE Regulations/Directive, Exemptions and BATRRRT guidance?
- ☐ Can EA provide test schedules and results that confirm that testing takes place on User/Holder sites to confirm that there is no environmental impact/contamination (either air, water or soil) as a result of these onsite treatment activities?
- ☐ Can the EA and or HSE demonstrate that User/Holder sites have carried out COSHH and Risk assessments prior to permitting hazardous WEEE treatment on their sites?
- ☐ There is currently, to the best of our knowledge, no analysis equipment available which could accurately test the emissions from an on site crushing appliance, without the appliance having to have major alterations carried out on it so that it can be tested to the BS EN 13385 & MID and BS

EN 13284-1 standards, with accreditation to UKAS/MCERTS. Therefore it is not possible to know what emissions are actually being produced at any one time.

- ☐ Can the EA provide evidence that all User/Holder sites have emergency provisions in place and site staff have been trained in the event of mercury and/or powder escapes from on-site treatment?
- ☐ Can the EA confirm that in all cases, lamps crushed on T17 sites is carried out by trained experienced operators who appreciate the risks (environmental and H&S) of dealing with mercury ?
- ☐ Can the EA confirm that only fluorescent tubes are the only GDL's that are crushed on site?
- ☐ If User/Holder sites collect 500kgs or more of hazardous waste (lamps and or other wastes combined) they are considered a Haz Waste Producer and required to register with the EA. Any such sites are already collecting substantial volumes of hazardous waste and cannot be considered as 'occasional' producers of lamp waste, therefore these sites should be required to have their Lamps treated (as with all other Haz WEEE and non-Haz WEEE) at a permitted and controlled treatment Installation.

The above Group find it astonishing considering our innumerable meetings with and complaints to senior members of the EA, Defra and BIS, regarding lowering standards in our industry and the importance of this T17 review to the industry, that no representatives from fixed sites were invited to contribute to pre consultation discussions. We therefore urge you to consider a meeting with us, as well as with BIS and Defra before the consultation is initiated. We are also aware of the spurious claims put forward by redacted and the mobile crushers regarding CO2 emissions and safety concerns regarding the transportation of hazardous WEEE, but we assure you those claims are completely groundless. The real driver regarding the increase in on site lamp crushing in the UK, is lower costs to the lamp manufacturers, which in this case means the lowest environmental and treatment standards. Unless Defra and the EA take the appropriate action regarding the banning of this illegal lamp crushing activity, it will undoubtedly mean the imminent closure of all fixed installation lamp recyclers in the UK.

As this waste stream is an **ABSOLUTE** entry in the Hazardous Waste Regulations, a further email will be sent during the early part of next week, containing further pertinent information regarding the crushing of mercury bearing tubes on unregulated/protected collection points and sites.

I look forward to your response in the near future.

Best Regards redacted

Mercury Recycling Limited



ESL 1654_Global
Mercury.pdf



press_release_mercury_Jan_19_2013 (1).pdf

From Environment Agency
On 25 October 2013 13:28> wrote:

Dear Mercury Recycling Ltd [redacted],

Thank you for your comprehensive email. The central issue for us is we don't really have any evidence to prove one way or another whether mobile crushing activities are truly low risk and should be operated under an exemption or under a permit.

The meetings we had previously with you, industry and the HSE resulted in our guidance note on storage and treatment of fluorescent lamps. This sets out the standards we expect Operators to use in order to meet BATRRT and operator exposure during storage. Defra intend to review their BATRRT guidance and are currently looking to appoint a contractor to undertake this work. There will of course be an opportunity to comment on the draft of this document.

I have spoken to [redacted] of ICER on this matter. It is for industry to present the evidence and subject to industry funding, ICER are best placed to take this forward so that we can then make informed decisions and move forward. ICER will be arranging a meeting with us in the next month or so to help scope out what this evidence should look like. I suggest you contact ICER to discuss and perhaps we will meet then.

In the interim, we have suggested to Defra some minor changes to T17; reducing the 24 hour threshold to 1 tonne and, in order to better mirror our guidance:

(c) re-word to - the equipment used for crushing must ensure that any mercury vapours and phosphor/glass dusts are effectively contained in a sealed system with appropriate air extraction and abatement to capture all dusts and vapour. The equipment shall be routinely monitored and maintained to ensure the seals remain effective.

(d) the mercury concentration in any resultant emissions does not exceed 25 microgrammes per cubic metre; and – replace with “the workplace Occupational Exposure Limit (OEL) of 20 microgrammes/m³ over an 8 hour time-weighted average”

(e) any glass or mercury released after crushing is stored in a secure container under weatherproof covering. – reword to: any crushed output is stored securely in a sealed weatherproof container

Regards,

Environment Agency [redacted]

From: electrical waste
Sent: 26 November 2013 17:24
To: (Defra)
Subject: Mobile Crushing of Hazardous Gas Discharge Lamps. (T17 Exemption)

Dear Defra official,

I am contacting you today on behalf of a group of Gas Discharge Lamp Recycling Operators who represent the majority of operators of permitted Lamp Recycling 'Fixed Installation' sites in the UK and who, in turn,

recycle a significant percentage of the UK's hazardous waste Gas Discharge Lamps. The Group includes Electrical Waste Recycling Group Ltd, Mercury Recycling Ltd, Enlightened Lamp Recycling Ltd.

Following several representations and exchanges with The Environment Agency, the group wishes to hold a meeting, or as likely if more expedient, a conference call with you in order to discuss the policy and effects of continued exemption to allow the treatment of hazardous waste by crushing gas discharge lamps on a waste holder or waste collector's site.

The group are not only concerned about: the environmental and health & safety impacts of carrying out such hazardous waste treatment in uncontrolled environments; or the mobile crushing technique's ability to meet BATRRT; or the Regulator's ability to monitor and control the quality of such activities across such a widespread population of many thousands of exempt sites; but we are also concerned, due to the unique market dynamics controlling lamp recycling in UK, about the alarming trend towards this exemption putting tightly permitted and controlled fixed installations at a commercial disadvantage and mobile crushing rapidly becoming the preferred, cheap mass market solution thereby rapidly dragging the UK into a low grade, transient treatment solution rather than Government being consistent in its permitting policies and supporting high quality, BATRRT treatment by operators who have had the conviction to invest heavily in appropriate capital equipment, infrastructure, technologies and jobs in order to provide the best waste treatment possible on highly regulated hazardous waste sites.

The group urgently need to speak with you at DEFRA to put its point across and determine whether UK waste policy will continue to support such exemptions since the Government's current position imminently jeopardises the future of all Fixed Installation lamp recycling operators in the UK.

I would appreciate if you could respond in the first instance letting me know whether you would be prepared to participate in such a conversation with this group and if so, when you could be available over the next week or so for either a call or meeting.

Many thanks, Redacted Electrical Waste Recycling Group Ltd

From: carbon-zone
Sent: 11 December 2013 16:37
To: (Defra)
Subject: Fwd: Follow Up to Mobile Crushing Exemption call

Dear Defra official,

Thanks for taking my call earlier. I appreciate you lending some time to this issue.

We are presently seeking some further clarification from the EA in regard to the historical basis for granting the T17 exemption but believe that, whilst it has subsequently been expanded to include Collection Points as well as waste holder sites, it was originally introduced pre-2007 (pre-WEEE Regs) and, at the time of original introduction, represented an exemption for a small proportion of lamp treatment in the UK. Today, we understand that, driven by the unique market dynamics present in Lamp WEEE that T17 exempt sites now number in the thousands in England and Wales alone and that mobile crushing now treats a significant and ever expanding proportion (possibly approaching 50%) of the reported Lamp WEEE arisings in the UK and we find ourselves in a rather unique position in the EU where mobile crushing has become a mainstream hazardous lamp WEEE treatment method.

As discussed, our question, as far as DEFRA is concerned, is (in my own words) the priorities within the 'legal hierarchy' and whether the Waste Framework Directive and subsequently introduced UK WEEE Regulations, BATRRT Guidance and S2 Exemption rules (extracts provided below) should supercede and/or take precedence over a T17 exemption that may now be outdated and inappropriately applied as a mainstream treatment method today.

The major point here is that all regulatory positions in regard to the controlled treatment of WEEE, outlined below, point towards haz waste pollution control and BATRRT standards related to containment, storage and treatment of WEEE which we believe cannot be met by the majority of currently T17 exempt sites. We also understand that compliance with the exemption conditions is not physically verified, nor is treatment on these sites monitored by the Regulator. In this case, how can such significant treatment activities be considered BATRRT when compared with heavily regulated and monitored fixed installation operators? We would appreciate DEFRA's review of the legal position in this regard.

Further, the group will be happy to forward you information on what it believes represents BATRRT in Lamp treatment for your consideration and I look forward to your available dates for a follow up early in January.

Best Regards, redacted CarbonZone Ltd

From: electrical waste
Sent: 15 January 2014 11:08
To: (Defra)
Cc: mercuryrecycling, enlightenedlamprecycling
Subject: FW: Mobile Crushing of Hazardous Gas Discharge Lamps. (T17 Exemption)

Hello Defra Official,

In addition to the legal framework position I sent you back in December [see email dated 6 December 2013], it has been suggested I also forward you, ahead of tomorrow's meeting, the attached opinion on the risks of mobile lamp crushing from Dr Redacted of University of Lancaster. They are a respected academic group very active in haz waste treatment research and have been extensively involved in the assessment of risks involved in handling and treatment of mercury bearing wastes for a number of years now, previously working as a chosen partner of WRAP and currently involved in similar large EU projects.

Their opinion should be considered relevant not only to the environmental and H&S risk potential but also therefore in considering whether mobile crushing activity can be reasonably considered compliant with BATTRT (as is a mandatory requirement in the treatment of WEEE and of Producer Compliance Schemes, {per Reg 31 in new Recast Regs}, in organising the treatment of WEEE in the UK).

Looking forward to our meeting tomorrow at 2pm.

Best Regards, Redacted

WERCS WEEE Producer Compliance Scheme

From: carbon-zone

Sent: 20 December 2013 16:15

To: (Defra)

Subject: FW: Follow Up to Mobile Crushing Exemption call

[Redacted], Apologies if I sent the following to you already. It outlines as clearly as I can where I think there is conflict between the previous Paragraph exemption (and the subsequent T17 exemption) and the various and more current legislation (including The Waste Framework Directive, WEEE Directive, UK WEEE Regs and BATTRT Guidance) most of which has been introduced after the exemption was created but all of which applies to and enforces standards on the storage and treatment of separately collected WEEE.

The exemption allows a holder or collection point to carry out mobile crushing of hazardous lamps without a permit. It does not exempt the holder/collection point from the specific requirements of the above current legislation. The points outlined below I believe are reason enough to include T17 in the forthcoming review of exemptions and from a legal perspective I question its validity in light of the more recent legislation.

Best Regards, Redacted Carbon Zone.

From: carbon-zone

Sent: 06 December 2013 14:17

To: EA

Cc: enlightenedlamprecycling.; mercuryrecycling;

Subject: Follow Up to Mobile Crushing Exemption call

Dear Environment Agency [redacted]

Thank you for taking time out of your respective days to attend the call last week.

As a summary and follow up to our conversation please see the following remarks from the representatives of the group of UK Lamp treatment Fixed Installations who attended the call.

We would ask that as well as considering what we believe to be the serious environmental impact of this exemption, that genuine consideration is given to the legal basis for the exemption in relation to the Waste Framework Directive and in the context of the WEEE Regulations which we believe were introduced after this exemption was granted. We offer some examples of our thoughts below for consideration.

Original Basis of Exemption:

We thank you for your time on the phone last Friday. We further look forward to your own research findings into the historical basis of the creation of this exemption, which may well have its origins in the exemption for crushing/compaction of inert packaging wastes (including packaging glass - bottles) but in any event must have gone through a reasonable evidence based risk assessment at the time of determination, which to us looks as if it may have taken place around 2006 pre-WEEE regulations. We would appreciate sight of that assessment and confirmation of whether, in fact, it was actually justifiably determined as a 'Low Risk' Operation at the time.

UK Treatment Migration to Mobile Crushing:

We firmly believe that this exemption may also have been issued at a time when mobile crushing of lamps was viewed as a convenient ancillary alternative to the mainstream fixed installation treatment solution but we find that today, the crushing of hazardous gas discharge lamps is fast becoming the treatment method of choice for the Compliance Scheme responsible for collecting and treating the vast majority of the reported Lamp WEEE in the UK. We would estimate that of approx. 4,500 tonnes of GDL reported as collected and treated within the UK WEEE system last year circa 2,000 tonnes may have been treated by the mobile crushing method and further, the number of exempt sites registered in the UK has grown to thousands presently, making way for this low-end, uncontrolled method to become the new mainstream GDL treatment technique.

Hazardous Waste treatment under Waste Framework Directive

In light of Article 17 of WFD, can it be appropriate to grant an exemption for the treatment of a hazardous waste which to all intents and purposes is not thereafter controlled in any way by the regulator. Can the Regulator then say it is in compliance with Article 17 therefore ?

Article 17. Waste Framework Directive.

Control of hazardous waste

Member States shall take the necessary action to ensure that the production, collection and transportation of hazardous waste, as

well as its storage and treatment, are carried out in conditions providing protection for the environment and human health in

order to meet the provisions of Article 13, including action to ensure traceability from production to final destination and

control of hazardous waste in order to meet the requirements of Articles 35 and 36.

The act of on-site crushing will inevitably increase the risk of mercury emissions, over that of fixed installation operations, by the simple fact that mobile crushing operators are required to interact with a fragile and volatile hazardous waste, often in a broken state, within an uncontrolled environment. Such sites cannot be said to provide conditions providing protection for the environment and human health. Additionally, how are re-used lamp containers cleaned of mercury bearing debris on these exempt sites following an on-site crushing episode ?

Treatment requirements under the WEEE Regs:

It is not disputed that the act of crushing waste gas discharge lamps is a hazardous waste treatment operation (as defined below, in Art 3 of the WFD and within Annex II of WFD), nor is it disputed that the current T17 exemption allows such treatment to take place on an exempt site, (in accordance with the

conditions laid out in the exemption). What we do dispute is the present validity of such an exemption, especially now in light of the WEEE Directive and subsequent WEEE Recast Directive and their specific treatment requirements for WEEE.

The group asks that you consider whether this method can truly represent BATRRT, and whether this unregulated method can possibly be consistently carried out in accordance with the conditions of your own BATRRT guidance since, under UK WEEE Reg 25(1), any operator of a Scheme is required to ensure that the 'treatment' of WEEE is dealt with i.a.w. BATRRT and if treated, then treated at an ATF. This same requirement on Producers and 3rd Parties acting on their behalf continues in the newer WEEE Recast Directive, Article 8.3.

Treatment (extract from current UK WEEE Regs)

25.—(1) *In respect of any WEEE for which he is responsible under these Regulations, an operator of a scheme shall ensure—*

(a) *that systems are set up to provide for the treatment of such WEEE using the best available*

treatment, recovery and recycling techniques; and

(b) *that such WEEE is—*

(i) *treated at an ATF; or*

(ii) *exported by an approved exporter for treatment outside the United Kingdom*

As discussed above, the fact that a treatment operation is taking place is not in dispute. So, for either the Waste Holder or the Waste Collection Point, surely then, even though they may be exempt from environmental permitting, since they are carrying out WEEE 'treatment' and evidence is being claimed on that WEEE, any such site must therefore abide by the WEEE Directive requirements for sites carrying out storage and treatment of WEEE. In this case these sites must comply with the conditions stated in Annex III (Paras 1 & 2)....

ANNEX III (extract from EU WEEE Directive)

Technical requirements in accordance with Article 6(3)

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements

of Council Directive 1999/31/EC):

— *impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate,*

decanters and cleanser-degreasers,

— *weatherproof covering for appropriate areas.*

2. Sites for treatment of WEEE:

- *balances to measure the weight of the treated waste,*
- *impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,*
- *appropriate storage for disassembled spare parts,*
- *appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste,*
- *equipment for the treatment of water in compliance with health and environmental regulations.*

The WEEE Directive (para 17 & Article 6 (1)) also requires those carrying out 'treatment' to treat the WEEE i.a.w. BATRR

Para 17 (extract from WEEE Directive)

Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material

or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen

level of protection of the environment of the Community.

Any establishment or undertakings carrying out recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. Best available treatment, recovery and recycling techniques should be used provided that they ensure human health

and high environmental protection. Best available treatment, recovery and recycling techniques may be further

defined in accordance with the procedures of Directive 96/61/EC.

Article 6 (extract from WEEE Directive)

Treatment

1. Member States shall ensure that producers or third parties

acting on their behalf, in accordance with Community legislation,

set up systems to provide for the treatment of WEEE using best available treatment, recovery and recycling techniques.

In order to comply with BATRRT, (per the EA's BATRRT Guide Doc # 214_12) there are key requirements which include the following. These requirements make no differentiation between Fixed installations and Mobile Crushing operations therefore apply to both. I summarise the BATRRT conditions below:

- Storage and Handling requirements summary ;
 - Store in robust, weatherproof containers preventing rainwater ingress and Hg vapour egress.
 - Lamps neatly packed to avoid breakage
 - Containers handled to avoid breakage and stored on impermeable surfaces with sealed drainage for reception sites (& recommended for production sites)
 - At reception sites H&S procedures & controls to be in place. Includes Hg monitoring to ensure levels <WEL and remedial plans including procedures and appropriate equipment for breakages/spillages
- Treatment requirements summary ;
 - Equipment must ensure Hg vapours are contained.
 - Crushed materials must be contained securely in an airtight, labelled container placed under weatherproof cover
 - Use of effective, well maintained crushing equipment to prevent fugitive releases. Includes control and maintenance of filters
 - Regular monitoring of Hg emissions (weekly or monthly)
 - Appropriate PPE to be worn at all times
 - Crushing activities must be carried out on an impermeable surface with sealed drainage with appropriate accident procedures

Note: The definition of 'Reception Sites' is unclear but I take it to include Waste Collection Points other than the Waste Producers' site.

The group are concerned given the conditions in the exemption and the more stringent requirements of the WEEE Directive, that The EA confirm that such mobile crushing operations go unmonitored due to a lack of resources and funding from non-fee paying exempt registrants. Surely then this fact alone marks out the widespread and now high volume nature of mobile crushing as a high risk to the environment.

Other obligations on a business which produces Haz Waste (a Holder) related to their Duty of Care:

Waste Producer premise(s) must be registered for Haz Waste production only if they produce >500kgs p.a.

Waste Producers do not need an exemption, or permit to store their own waste on their own site.

Regardless, they must ensure the waste is stored safely and managed correctly and that they keep records of the wastes.

See link: http://a0768b4a8a31e106d8b0-50dc802554eb38a24458b98ff72d550b.r19.cf3.rackcdn.com/LIT_5552_28b742.pdf

For Collection Points however, (receiving wastes at a place other than where it was produced), the rules are different:

- The more recent extension of the exemption to include Collection Points specifically requires treatment i.a.w. BATRRT (See Treatment Section above)
- As the waste is produced elsewhere, a Collector would have to apply for an S2 Exemption to enable them to temporarily store the Lamps.
- The S2, in addition to requiring storage in a secure place, requires specific storage conditions for lamps i.a.w. Annex III to the WEEE Directive (See extract above)

Evidence of Environmental Impact:

We believe that there is sufficient merit in the legislative positions above to re-consider the validity of an exemption to treat hazardous waste lamps by mobile crushing. However, in the call we discussed that The EA would need to see evidence of the detrimental environmental impact of mobile crushing of hazardous waste lamps. We explained that aside from the photographic evidence already presented, we as a group are direct competitors to the mobile crushing operators and are therefore unlikely to be given access to a site in order to monitor the environmental performance of the competitor. Furthermore, we believe that it should be incumbent upon the operator of the mobile crushing equipment to provide evidence of compliance, not just of the exemption conditions, but also BATRT requirements, rather than the competitors to prove that it is non-compliant.

However, to augment our position in regard to the risks presented by mobile crushing we provide 'independent' evidence from an extensive EPA (US) report on the practice of mobile crushing and the resultant emissions and Environmental / H&S risks presented by the method (see attached).

[Environment Agency] agreed to present the historic details on this exemption within two weeks following last Friday's call, whereupon we agreed to have a follow up call. That brings us into week commencing 16/12/13. Can you advise your collective availability for a call early in that week please ?

On behalf of Electrical Waste Recycling Group Ltd., Mercury Recycling Ltd, Enlightened Lamp Recycling Ltd.

Best Regards, Redacted

Article 3. Waste Framework Directive.

14.

Treatment means recovery or disposal operations, including preparation prior to recovery or disposal;

15.Recovery means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II sets out a non-exhaustive list of recovery operations.

ANNEX II

RECOVERY OPERATIONS

R 1 *Use principally as a fuel or other means to generate energy (*)*

R 2 *Solvent reclamation/regeneration*

R 3 *Recycling/reclamation of organic substances which are not used as solvents (including composting and other*

*biological transformation processes) (**)*

R 4 *Recycling/reclamation of metals and metal compounds*

R 5 *Recycling/reclamation of other inorganic materials (***)*

R 6 *Regeneration of acids or bases*

R 7 *Recovery of components used for pollution abatement*

R 8 *Recovery of components from catalysts*

R 9 *Oil re-refining or other reuses of oil*

R 10 *Land treatment resulting in benefit to agriculture or ecological improvement*

R 11 *Use of waste obtained from any of the operations numbered R 1 to R 10*

R 12 *Exchange of waste for submission to any of the operations numbered R 1 to R 11 (****)*

R 13 *Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage, pending*

*collection, on the site where the waste is produced) (****)*

(****) *If there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as,*

inter alia, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending

or mixing prior to submission to any of the operations numbered R1 to R11.

“sealed drainage”

means a drainage system with an impermeable surface which ensures that:

(a) no liquid will run off the surface otherwise than via the system, and

(b) except where they may be lawfully discharged,

all liquids entering the system are collected

in a sealed sump.

From: Group of Gas Discharge Lamp Recycling Operators redacted

Sent: 26 November 2013 17:24

To: Defra redacted **Subject:** Mobile Crushing of Hazardous Gas Discharge Lamps. (T17 Exemption)
Dear redacted,

I am contacting you today on behalf of a group of Gas Discharge Lamp Recycling Operators who represent the majority of operators of permitted Lamp Recycling 'Fixed Installation' sites in the UK and who, in turn, recycle a significant percentage of the UK's hazardous waste Gas Discharge Lamps. The Group includes [redacted].

Following several representations and exchanges with The Environment Agency, the group wishes to hold a meeting, or as likely if more expedient, a conference call with you in order to discuss the policy and effects of continued exemption to allow the treatment of hazardous waste by crushing gas discharge lamps on a waste holder or waste collector's site.

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The group urgently need to speak with you at DEFRA to put its point across and determine whether UK waste policy will continue to support such exemptions since the Government's current position imminently jeopardises the future of all Fixed Installation lamp recycling operators in the UK.

I would appreciate if you could respond in the first instance letting me know whether you would be prepared to participate in such a conversation with this group and if so, when you could be available over the next week or so for either a call or meeting.

Many thanks, redacted



RB19 Pallets.pdf.pdf

From: Mercury Recycling Redacted
Sent: 18 June 2014 16:24
To: Defra
Subject: Complaint

Without Prejudice

Dear Defra,

We noted with interest at the recent ICER meeting, that after taking legal advice, DEFRA will be recommending (in the exemption consultation that will take place later this year) that all sites where the treatment of WEEE takes place, that the sites must comply to the minimum site standards as stipulated in the WEEE Directive. We have always stated that this should be the case and have been extremely disappointed DEFRA and the EA have chosen not to enforce this position to the severe detriment of the country's lamp recycling fixed installations, despite our numerous previous protestations to both organisations.

Our complaint is based on three legal points:

Firstly, there is no question that the crushing of lamps at a Producer's site constitutes WEEE treatment and there is absolutely no need to consult on whether WEEE treatment needs to comply to the treatment standards set out in the WEEE Directive, as it is an existing legal requirement and therefore needs no consultation process. The UK Government is clearly failing to meet its obligations under Article 17 of The Waste Framework Directive by continuing to operate an exemption (T17) permitting the unregulated and uncontrolled treatment of hazardous waste on uncontrolled sites. The EA admitted on our joint call in December 2013 that it could not establish the original basis for producing such an exemption, did not have available any risk assessment to justify its creation and had not, and further has no intention to apply resources to monitor on-site crushing activities since it raised no revenues from granting exemptions. The UK Government cannot therefore claim in this instance to have taken the necessary action to ensure that the storage and treatment of hazardous waste are carried out in conditions providing protection for the environment and human health and as such the exemption should be immediately withdrawn.

Secondly, DEFRA and the EA, by issuing exemptions to permit the uncontrolled treatment of mercury bearing lamps and tubes on Producers sites without first checking that those sites comply to the minimum standards, have failed to ensure that Operators of Producer Compliance Schemes meet their obligations under Reg 31(1)(a) and 31 (1)(b)(i). For instance: Do the sites have impermeable surfaces and a sealed drainage system ?; Can the uncontrolled treatment of Lamps be considered "Best Available Treatment" ?; The treatment is taking place at locations other than at an ATF.

Thirdly, by allowing mobile crushing operators to operate below the legally required minimum standards (as set out in the WEEE Directive) DEFRA and the EA have severely affected the environment and human health and severely undermined fair competition in the UK market, which has resulted in catastrophic commercial damage to companies that have invested significant sums of money in people, plant equipment, process management, monitoring and controls, containment solutions and fees to the Regulator to maintain onerous PPC permits, each of whom operate in a highly regulated and controlled environment but are willing to do so in order to ensure protection of the environment, human health and compliance with the relevant Waste, PPC and WEEE Regulations.

There are serious questions to be answered with regard to the suitability of any exemption for sites where the unregulated treatment of mercury bearing waste takes place, where emissions to air and contamination to land and water cannot be effectively controlled or monitored neither by the operator or the EA. This also

clearly breaches DEFRA's own BATRRRT guidance. See attached (paragraphs from 119 to 130).

Action Required

At our meeting in London in Jan 2014, DEFRA committed that a consultation on the T17 exemption would take place "early April (2014)". Your comment that this consultation has not already started, by June 2014, and indeed will be delayed until the "later this year" is not acceptable. The legal breaches outlined once again (above) have been allowed to continue for too long already, to the severe detriment to the protection of the environment, human health and to legally compliant companies operating in the sector. As we have previously explained to you, further delays in rectifying this situation will lead to job losses and business closures. We cannot tolerate further unexplained delays in action. Frankly, the UK regulations and guidance are set in black and white and must be complied with and we see no reason why non-compliant treatment of WEEE should be knowingly permitted at all. Any consultation on this matter would serve no purpose as it is clear that this outdated exemption contravenes subsequent Directives and UK Regulation, will inevitably be a costly exercise and will only extend the commercial and likely environmental damage which has already been suffered. We therefore request that you put an end to further deliberations and put an immediate stop to the T17 exemption as we have been requesting of DEFRA for many months now.

Further we would ask that Government ensure and enforce that any and all Producer Compliance Schemes involved in and actively encouraging mobile crushing of Fluorescent Lamp WEEE in the UK, singularly for cost benefit, be immediately held to comply with their existing obligations as an approved Scheme under Reg 31 of the UK WEEE (Recast) Regs.

We await your responses by the end of 30 June 2014.

Redacted

This email is sent on behalf of Mercury Recycling Ltd, Electrical Waste Recycling Ltd and Enlightened Lamp Recycling Ltd.

Defra response



Letter to Bryan Neill
EIR.pdf



Letter from
University of Central L

From: Redacted Mercury recycling

Sent: 18 July 2014 10:19

To: Waste Regulation and Crime

Cc: redacted Defra **Subject:** Subject : Response to your letter dated 10 July 2014 on the matter of the ongoing validity of T17 exemption.

Dear Defra official,

Thank you for your letter dated 10 July 2014. We respond as follows:

As Policy Lead for waste regulation we appreciate you acknowledge that waste activities carried out under T17 exemptions have potential to pose a risk to human health and the environment. Quite apart from the conditions stipulated within the T17 Exemption, our comment that the exemption permits the "unregulated and uncontrolled" treatment of hazardous waste was intended to mean that such activities are, quite literally, unregulated and uncontrolled as any applicant for a T17 exemption can expect their application to be granted without a physical inspection of their site and/or their storage arrangements to ensure that it complies with the exemption conditions. Furthermore, it has been made clear to us that the Regulator does not and will not inspect sites, or mobile crushing activities on those sites, as it generates no revenues from the granting of now several thousand T17 exemptions, nor does it generate ongoing subsistence fees for the maintenance of those exemptions. In practice then, mobile crushing operations on exempt sites are neither effectively regulated nor controlled.

We also wish to remind you that the revised T17 exemption (2012) also extended permission for Lamp crushing activities to take place not only at the place of production but now also at "Collection points" (see RPS124 attached). The statement further defines a collection point to mean "...a place which is used for the collection of waste by an establishment or undertaking where the establishment or undertaking does not—(a) receive payment for collecting the waste, or (b) collect waste as its main business activity;" We therefore find it particularly odd that the Regulator has approved exemption applications for Municipal Waste Sites and Hazardous Waste Recycling Centres (Local Authority and non-Local Authority operated) whose main business activity is surely the collection of waste. Further, we understand that there are also examples of private collection points which are approved as exempt sites yet may receive payment for collecting waste. This was brought to the Agency's attention over 6 months ago and we are still unaware of any response or action on this point.

We appreciate that the operator is held to ensure that the exempt activity does not pollute the environment or harm human health and also that, (consistent with Article 17 of The Waste Framework Directive), The Environment Agency has a duty to carry out inspections to ensure compliance and the correct storage, treatment collection and transportation of hazardous waste. Therefore, we would ask you to confirm:

- i. to what extent inspections are made prior to granting T17 exemptions nationwide ?;
- ii. when was the last time an applicant's site was inspected prior to granting a T17 exemption ?;
- iii. following the granting of an exemption to what extent are inspections made to ensure the exempt site meets, or continues to meet the conditions of the exemption ?;
- iv. when was the last time that a random or surprise field inspection was completed by the EA on a mobile crushing operator's practices and abatement system to ensure that it does not create pollution or harm ?

As to the 'intelligence-led' approach, having considered this point already, we previously asked for evidence of the Risk Assessment that the Regulator must have carried out to confirm that Lamp crushing is a 'low risk' activity and thereby one which is applicable as an exempt activity in the first place. No such evidence of a risk assessment has been made available to us and so, to date, we have no evidence that such risk assessment has ever taken place but still request that DEFRA or The Environment Agency present this risk

assessment to us. Please also see attached letter from the University of Central Lancashire, which advises that the EU Waste Framework "precautionary principle" should be applied and that should be the position until "demonstrably proved otherwise". It appears that the EA and DEFRA are working from the opposite position in that a treatment process must be proved to be danger to human health and the Environment before an exemption is refused, which is in total contradiction.

As to the focus on dealing with those activities posing the greatest risk to the environment and human health, we know of few more volatile and difficult to manage hazards than mercury (Hg) in waste. Its effects on human health and the extreme extent of its eco-toxicity are well-known and documented. We have already mentioned in earlier correspondence that $>1\mu\text{g}$ Hg per litre of water would exceed the acceptable limit for safe drinking water. We understand that, via DEFRA's own commissioned research, the Critical Limit for Hg concentration in soil is no more than $13\mu\text{g}$ per gram (or just 0.13 parts per million) so the tolerances of acceptable contamination in water and soils are extremely fine and yet, in the UK, over 5,300 tonnes of Gas Discharge Lamps were reported as received by AATFs for treatment last year (2013), and on the basis that a significant proportion of lamps collected contained an Hg volume of 10mg or greater, we can deduce that roughly 250 kilograms of Hg or greater would have been contained within that volume of lamps.

The Regulator has quarterly and annual Waste Returns from each of the Fixed Installations operated by the members of this representative group which will demonstrate to you that they no longer treat the majority of the Gas Discharge Lamp waste arisings reported in the UK. Whilst we do not share such information amongst the group we would broadly estimate that 60% or more of the Lamp WEEE arisings in the UK are now treated by operators other than those represented by this group. This being the case it is feasible that over 3,000 tonnes of Gas Discharge Lamp WEEE may now be treated by mobile crushing operators, containing c 160kgs of Hg, (or to put it in perspective, enough to contaminate 160 Billion litres of drinking water beyond safe limits).

We believe, therefore, that Lamp recycling, in whichever form, poses a great risk to the environment and human health, evidenced by the extent of controls and restrictions placed on the fixed installations, (now treating the minority of Lamp WEEE in the UK), by their respective Permits. With so much hazardous lamp treatment now being carried out by mobile crushing operators under exemption, without inspection or intervention by the Regulator, can you therefore really say that DEFRA and the Regulator are focusing on those activities posing a the greatest threat/hazard to the environment and human health ?

In regard to better understanding the market, might we suggest that you utilise the data you have at hand held by The Regulator to establish the extent of mobile crushing of lamps in England, but also endeavour to account, via the annual mass balance returns, for the appropriate mass input of Lamps to AATFs and outputs of Glass, Metals, Powders and specifically Mercury recovered from Lamp treatment and assess whether treatment has been carried out, particularly of the Powders, in accordance with Annex II (and therefore BATRRT) to recover the Hg in order to complete treatment and therefore justifiably issue evidence against that treatment. We would expect that mobile crushing operators can satisfy you that treatment and recovery of Hg is at least to an equivalent standard of Fixed Installations in order to be considered 'Best Practice'.

There is no argument whatsoever that Lamp crushing on an exempt site is not a form of treatment. Article 3, para 14 of the Waste Framework Directive (see extract below) makes it clear that "Treatment means recovery or disposal operations, including preparation prior to recovery or disposal." So whether this "preliminary" activity of "crushing" or "compacting" (per Annex II below) takes place prior to a secondary treatment activity does not disqualify crushing or compacting from being considered a treatment activity.

Such treatment, including those elements of preliminary treatment, must therefore take place in accordance with BATRRRT (WEEE Directive 2012/19EU Article 8.2 and 8.3 & Annexes VII & VIII) and furthermore, Schemes must ensure that WEEE treatment takes place at an ATF (as stipulated in the UK WEEE Regulations 2013 No.3113, Reg 31 (1)(b)) and not on a waste Producer's or Collector's site.

We appreciate you are continuing to investigate the validity of the exemption and the risks associated with on-site mobile crushing of mercury bearing lamps and that BATRRRT guidance is still presently under review but meantime we remain extremely concerned about numerous aspects of Hazardous WEEE treatment under exemption and ask that you respond to the above points directly by the 31st July 2014.

In light of the aforementioned we request, that in the event that you find that none or the majority of the sites registered for exemption under T17, have not been checked to ensure that they meet the minimum treatment standards as set out in the WEEE Directive (waste treated shall be under weather proof covering on impermeable surfaces / sealed drainage), that you immediately suspend all exemptions, until the sites can be inspected and be proven to comply, by an EA official. We remind you that all fixed installation plants currently all operate to these minimum standards which are extremely costly to maintain, meaning that our correct compliance is severely damaging our commercial competitiveness against what are illegal operations.

Extracts:

Article 3. Waste Framework Directive.

14.Treatment means recovery or disposal operations, including preparation prior to recovery or disposal;

15.Recovery means any operation the principal result of which is waste serving a useful purpose by replacing other

materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy. Annex II sets out a non-exhaustive list of recovery operations.

ANNEX II

RECOVERY OPERATIONS

R 1 Use principally as a fuel or other means to generate energy ()*

R 2 Solvent reclamation/regeneration

R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other

*biological transformation processes) (**)*

R 4 Recycling/reclamation of metals and metal compounds

*R 5 Recycling/reclamation of other inorganic materials (***)*

R 6 Regeneration of acids or bases

R 7 Recovery of components used for pollution abatement

R 8 Recovery of components from catalysts

R 9 Oil re-refining or other reuses of oil

R 10 Land treatment resulting in benefit to agriculture or ecological improvement

R 11 Use of waste obtained from any of the operations numbered R 1 to R 10

R 12 Exchange of waste for submission to any of the operations numbered R 1 to R 11 (****)

R 13 Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage, pending

collection, on the site where the waste is produced) (*****)

(****) If there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as,

inter alia, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending

or mixing prior to submission to any of the operations numbered R1 to R11.

Best Regards Redacted

Mercury Recycling Limited,

From: Redacted balcan
Sent: 15 January 2014 17:05
To: Defra EA and BIS
Cc: redacted **Subject:** Yesterday's meeting at Balcan

Gentlemen

I would like to thank you all for taking the time to come and visit us to see for yourselves not only how the lamp crusher operates, but also how our lamp recycling facility operates.

Both Balcan [redacted] and myself have felt for some time that the position regarding the use of lamp crushers in conjunction with lamp recycling should have been finalised some years ago. We feel that the current drive from our competitors is now to gang up in numbers and with political influence if possible, spreading information which is total rubbish. Balcan is highly regarded throughout the world for their equipment and have a very good relationship with our Swedish competitor, who manufactures recycling systems. We both operate on a level playing field and each try to sell their own equipment based on its merits, as well as cost.

To summarise (in no particular order) some of the misinformation which has been circulated and which we hope has now been made clear:

1. In our experience no one uses a permanent mercury monitor. The use of the Jerome or Shaw City/Ion mercury vapour indicator is accepted worldwide. As the vapours from a lamp recycling system passes through an activated carbon vessel this removes the mercury. The same principle applies to the lamp crusher. This carbon filter does not just fail. With regular monitoring the levels of mercury breakthrough over the lifetime of the carbon will begin to increase, as it becomes saturated. However, this may take some time before the maximum level is reached.
2. Feedstock – over the years the amount of end users with a lamp crusher has reduced considerably. Therefore our estimations are that only 5% of feedstock comes from pre crushed lamps. The suggestion lamp crushers limit the feedstock available for competitors is rubbish. When we go to a site we are presented with a container of lamps. The same would apply to everyone else.
3. Since we manufactured the world's first commercial lamp crusher in 1980, no one has ever presented results to show they do not comply. Since the exemption removal issue in 2006 we have not seen any evidence to support the theory that lamp crushing is dangerous. The 2003 US report on drum top crushers is out of date and was always inaccurate. We have the up-to-date report and position from the company whose machine was tested. I can ask if they will be happy to circulate that report if anyone would like a copy.
4. The urine tests for our drivers are well below any maximum level. In fact some are classed as background level. The use of respiratory protection is not required, even by our recycling operatives.
5. Lamp crushing is not a recycling process. It is purely a controlled volume reduction exercise.
6. There are seven US states where lamp crushing is not allowed. Whole lamps in the US are classed as Universal Waste. However, crushed lamps are classed as hazardous. The seven states which do not allow crushing, only do so due to that State's own law and position on producing hazardous waste. In the EU lamps are hazardous either whole or crushed.
7. Whole lamps break during transport so there will always be uncontrolled emissions. Lamp crushers package the debris to prevent this.
8. We believe lamp crushing to be a low risk process with no known issues and the T17 exemption would appear to still be the most suitable method of monitoring this activity, would you all agree? We also believe if there was any real evidence to support our competitors' arguments, they would have been able to present them since 2006 to progress their case, rather than make false claims in the hope of getting lamp crushers banned and gaining market share.

If you would like any further information please do not hesitate to contact me.

Best regards Balcan Redacted

From: redacted (Defra)
Sent: 09 April 2014 13:04
To: Balcan

Cc: BiS **Subject:** RE: Lamp Crushing

Balcan Redacted

Apologies for the delay in responding.

Let me assure you that we are still looking at the legal and environmental issues around the T17 exemption and that no final decision has been taken.

We hope to be able to propose a way forward in the next few weeks but as I said at the recent ICER meeting, I am not able to give any more detail at this stage.

Regards

Defra

From: Balcan
Sent: 03 April 2014 19:01
To: (Defra)
Cc: EA
Subject: RE: Lamp Crushing

Redacted [Defra]

Is it possible to give an indication whether the T17 will be scrapped or continue to exist possibly with amendments? After the ICER meeting in February Paul Barker informed me it was due to be tweaked, with a lesser volume per day limit, as well as a couple of other minor issues. Is this still the case? I assume if there is a legality issue with the T17 it will affect all other exemptions involving hazardous waste as well as the future issues being discussed involving WEEE and large domestic appliances (LDA)?

My concern is the fact that no one is forthcoming with any information means it may already be a done deal. If that is to negatively impact the T17 and our business then we would like the opportunity to fight our corner for as long as possible.

Our crushers are due to be licensed in South Africa after an environmental impact assessment and a number of Latin American countries are also due to license them. These are in addition to many other countries who allow crushing, including some European countries. As a world leader in the supply of lamp recycling equipment and crushers we know more about the hazards involved than our competitors who put out misinformation.

I am going to contact Dr [redacted] who was responsible for writing the exemption, as an independent person, and ask him to contact you to clarify any queries you may have regarding the T17.

Regards Balcan

From: Balcan redacted]
Sent: 03 April 2014 10:07
To: (Defra)
Subject: Lamp Crushing

Hello redacted

I understand that Defra and the EA are coming out with a position on the T17 lamp crushing exemption. Did the Defra solicitor decide the legality of the exemptions?

I am conscious our competitors will have been lobbying hard against crushing for pure financial gain and would not like to see Defra and the EA being swayed by misinformation as has happened in the past.

At a previous ICER meeting you attended [redacted] from Mercury Recycling did acknowledge there was not an issue with crushers but referred to impermeable surfaces and drainage. These side issues will also relate to the storage of lamp containers and not the crushing process.

Best regards

Redacted Balcan

From: mercuryrecycling **Sent:** 29 October 2013 15:35
To: EA
Cc: Defra, EA and ICER **Subject:** Re: T17 - Exemption Review

Dear Environment Agency [redacted]
Our Group are quite dumbfounded by your response.

You advise: "The central issue for us is we don't really have any evidence to prove one way or another whether mobile crushing activities are truly low risk and should be operated under an exemption or under a permit."

This sounds to us that the Agency are quite happy with the position that if there is no evidence of risk, therefore is it 'probably' OK to let this practice continue unless and until there is an environmental incident that means we have to do otherwise.

In our experience, we have always been held to do the complete opposite. With our installations, they will take the 'precautionary principle', seeking to identify risks in advance of any permissions being granted and the burden of proof is with the Operator to convince and demonstrate to The Agency, that there will be no impact on the environment or to human health (proof of BATRRT if you like). Emissions limits and other specific monitoring requirements are set and then, after licensing, the Operator is held to prove that the installation/process is performing as per the operator's commitment by providing the Agency with periodic results from the process.

We therefore believe Fixed installation Operators have every right to be aggrieved by your response. We also find the remarks inconsistent with the Agency's approach to licensing and monitoring Fixed Installations. Collection and storage aside, those Operators carrying out treatment of Hazardous wastes must surely all be regulated equally, and Fixed installations not discriminated against unfairly, otherwise the cheapest (lowest quality) option is always going to win out in the end and the Agency will have single-handedly dismantled the UK's FI infrastructure.

We believe that the evidence provided, in particular the pictures, clearly demonstrates that on-site crushing is definitely not a low risk activity.

As well as high levels of contamination and breakages in the pallets you can clearly see the extent of water ingress and large volumes of mercury contaminated water present

which clearly cant be handled on unregulated sites.

In addition, we have advised you that very few, if any of the thousands of sites where T17 exemptions exist and on-site crushing takes place have impermeable surfaces or sealed drains so, those who are not covered by a NWFD exemption but may be covered by an S2 exemption are likely to be in breach of Haz Waste Storage exemption rules. In particular with lamps, there is a requirement to comply Paragraph 1 of Annex III of the WEEE Directive, See extract below...

ANNEX III

Technical requirements in accordance with Article 6(3)

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements

of Council Directive 1999/31/EC):

— impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate,

decanters and cleanser-degreasers,

— weatherproof covering for appropriate areas.

2. Sites for treatment of WEEE:

— balances to measure the weight of the treated waste,

— impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers,

Further, if this is the case (and in any event, we question that such on-site mobile crushing techniques do represent BATRRT) we also question whether the Operator of the Producer Compliance Scheme who is actively encouraging the use of this method for treatment of Lamps in the UK is compliant with its obligations under Reg 25 of the UK WEEE Regs.

25.—(1) In respect of any WEEE for which he is responsible under these Regulations, an

operator of a scheme shall ensure—

(a) that systems are set up to provide for the treatment of such WEEE using the best available treatment, recovery and recycling techniques

We enclose for you information relating to the issues of global mercury pollution which you may find of interest.

We also ask that the EA take another look at all the clear evidence provided before approving what is clearly a dangerous and illegal activity.

Best Regards

Mercury Recycling Limited,

Agendas for the Meetings held

Follow Up to Mobile Crushing Exemption call : Action notes from meeting with Gas Discharge Lamp Recycling Operators and Defra on Friday 17 January 2014.

1. [redacted] to check with Haz Waste colleagues regarding consignment of mercury contaminated water
2. [redacted] to check if Defra hold any evidence/background on the granting on the exemption
3. [redacted] to check if they have evidence/background on the granting on the exemption
4. [redacted] to review the legislation (as quoted by [redacted]) and refer to Defra Legal to ensure that the exemption does not contravene any wider legislation

5. [redacted]to contact BSI regarding any work that may have been done in this area
6. [redacted] to discuss the proposed wording for the upcoming exemptions consultation with EA

Redacted

Internal meetings

February 2014 we had a meeting to gain a clear understanding of the mercury/mobile lamp crusher policy issue correctly and explaining, from the evidence side, a couple of options for obtaining additional knowledge on the subject.

Last month, we had another internal meeting to discuss next Steps for Evidence Work to Support Regulation and Policy on Mercury Risks from Mobile Crushers. No minutes were taken for this meeting. The agenda included a literature review and feedback from HSE, questions around new evidence required and what should that evidence should look like and Managing and resourcing any evidence activities.

From: Defra Redacted

Sent: 01 July 2014 00:31

To: EA and Defra redacted

Subject: Doodle Poll ACTION: steering group update and next steps on risks from mercury and mobile tube crusher unitsAll

It has been some time since the last meeting on the issues surrounding risks from fluorescent tube mobile crusher units. There is now more to report and potential decisions to make on how to respond to the current situation.

Please select your preferred meeting times (can be a telecon if you can't make it to London) in this Doodle poll - redacted

The meeting is likely to cover:

- welcoming PHE (redacted) to the group
- update on regulatory/policy developments and industry situation
- some confidential HSE data shared earlier this year
- evidence literature review work that might be done
- discussing any new wet science/field research that may be required and how to manage/resource it

From: Waste Regulation and Crime

Sent: 12 August 2014 17:20

To: [REDACTED]

Cc: Waste Regulation and Crime

Subject: FW: Subject : Response to your letter dated 10 July 2014 on the matter of the ongoing validity of T17 exemption.

Dear Mr [REDACTED]

Thank you for your email of 18 July in response to my letter of 10 July.

Exemptions unlike permits are not subject to an application. In registering an exemption an operator is stating that what is carried out is exempt within the rules laid down in the Regulations for that exempt waste operation. The Environment Agency (EA) would not

normally verify the claim made when an exemption is notified to it. However, exempt waste operations, like permitted operations, are subject to appropriate periodic inspection. It is for the EA to consider what level of inspection is needed for different types of exempt waste operation and it should do this in a proportionate manner but should be sufficient to bring about optimal levels of compliance. The EA is funded in part through Defra grant-in-aid to carry out inspections, where the cost is not recovered through fees and charges. As I mentioned before, if a person registers an exemption but is not meeting the rules of the exemption, then that operation is not exempt and requires an environmental permit. Where this becomes known to the EA, it should remove the exemption from the register. If a particular type of exempt waste operation is consistently subject to abuse then we would consider representations and evidence from the Environment Agency and others as to the need to amend the scope of the exemption. It would be very helpful if you could work closely with the EA on any intelligence you have on abuses of the T17 exemption.

I am afraid I am unable to provide data on the numbers of inspections carried by the Environment Agency under the categories you requested. However, we are in discussion with the Environment Agency more generally about the development of a programme for its inspections of all exempt waste operations. It is in all our interests if the overall approach to monitoring compliance of exempt waste operations were made known.

Collection points have a particular meaning as being somewhere where waste is gathered to aid its collection pending recovery or disposal (see EPR 2010 Schedule 25 Part 3 para 4). They therefore cannot be waste treatment sites at the same time. The EA's regulatory position statement currently extends the scope of the T17 to include WEEE collection points as long as a T17 is registered and payment is not received for collecting the tubes and collecting the tubes or any waste is not the main business activity. If you need more information about this, please contact [REDACTED], by email Redacted. The EA has confirmed that it will reconsider the matter of collection points in its regulatory position statement.

Defra is not complacent about the risks posed by inappropriate management of hazardous wastes. As I mentioned in my previous letter, we are currently considering the evidence around this exemption and may commission further work to address gaps in knowledge. If independent evidence shows that that treatment of waste fluorescent tubes before collection for recovery constitutes a greater risk than was previously envisaged, we will address this and amend the exemption accordingly.

I can assure you that just like you, we want to see tougher and speedier action against those who deliberately flout the rules or repeatedly operate to poor standards and risk harm to local communities and legitimate businesses. Minister Dan Rogerson has written to the EA calling for a tougher enforcement approach against those who flout the rules or repeatedly operate to poor standards. We will continue to work with and encourage the EA to develop closer links with industry to help promote best practice and professional

standards and forge closer intelligence links that will identify and marginalise poor or rogue operators who are responsible for adverse impacts.

Thank you for bring these issues to our attention. We will consider some of these issues in the proposed consultation.

Regards

[REDACTED]

[REDACTED] Waste Regulation and Crime