



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**GENERAL NOTICE LETTER  
URGENT LEGAL MATTER  
PROMPT REPLY NECESSARY**

Kyle E. Foote  
Stinson LLP  
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Kansas City, Missouri 64106-2150  
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Michelle Gale  
Waste Management of Iowa, Inc.  
800 Capitol Street  
Houston, Texas 77002  
Mgale1@wm.com

Re: General Notice Letter for the Recycletronics – Akron Farms Facility  
Superfund Site in Akron, Iowa

Dear Mr. Foote and Ms. Gale:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal “Superfund” law, the EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the Recycletronics – Akron Farms Facility Superfund Site (Site). The EPA has spent public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to the EPA, the EPA has determined that Waste Management of Iowa Inc. (Waste Management) may be responsible under CERCLA for cleanup of the Site or costs the EPA has incurred in cleaning up the Site.

**Explanation of Potential Liability**

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. PRPs

include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that Waste Management may be liable under Section 107(a) of CERCLA with respect to the Site, as an arranger, who by contract or agreement, arranged for the disposal, treatment or transportation of hazardous substances at the Site. Specifically, the EPA has reason to believe that Waste Management arranged for the disposal, treatment, or transportation of lead to the Site in the form of cathode ray tube (CRT) glass.

To date, the EPA has taken multiple response actions at the Site under the authority of the Superfund Program. Below is a brief description of the Superfund actions taken at the Site.

- In August 2021, the EPA conducted a Removal Site Evaluation, in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases from the Site.
- In spring and summer of 2022, the EPA conducted a Removal Action to reduce any immediate threat to the environment or human health posed by the Site. The Removal Action consisted of removal of approximately 1,431 gaylord boxes of CRT-containing glass, some of which were labeled with Waste Management's name. All field work for the Removal Action was completed by the end of July 2022, and a cost estimate is expected to be completed in fall 2022.

### ***De Minimis Settlements***

Under Section 122(g) of CERCLA, whenever practicable and in the public interest, the EPA may offer special settlements to parties whose waste contribution to a site is minimal in volume and toxicity, that is, *de minimis* parties.

Individuals or businesses resolving their Superfund liability as *de minimis* parties are not typically required to perform site cleanup. Instead, the EPA requires *de minimis* settlors to pay their fair share of cleanup costs incurred, plus a "premium" that accounts for, among other things, uncertainties associated with the costs of work to be performed in the future. In return, *de minimis* settlors receive: (1) a covenant not to sue, which is a promise that the EPA will not bring any future legal action against the settling party for the specific matters addressed in the settlement; and (2) protection from contribution claims, which provides a settling party with protection from being sued in a contribution action by other responsible parties for the specific matters addressed in the settlement. (The matters addressed in a *de minimis* settlement are typically all cleanup actions and all cleanup costs at the particular site.) Participation in a *de minimis* settlement means that you are settling directly with the EPA as soon as it is possible.

The protection from contribution actions for *de minimis* settlors is based on Sections 113(f)(2) and 122(g)(5) of the CERCLA law, which provide that a person "who has resolved its liability to

the United States” in an administrative or judicially approved settlement “shall not be liable for claims for contribution regarding matters addressed in the settlement.” This protection against contribution claims, however, may not extend to claims by third parties that have incurred their own response costs and seek to recover them under Section 107(a)(4)(B). *See United States v. Atlantic Research Corporation*, 127 S.Ct. 2331, 168 L.Ed. 2d 28 (June 11, 2007) (in certain situations, a liable party who has incurred cleanup costs at a site can sue other liable parties under CERCLA § 107(a)(4)(B)).

If Waste Management believe that it may be eligible for a *de minimis* settlement at this Site, please contact Cathie Chiccine at 913-551-7917 or Chiccine.catherine@epa.gov for additional information on *de minimis* settlements. Additional information will be sent to you, and you may be asked to respond in writing to questions about your involvement with the Site to assist the EPA in making a determination as to whether you may be eligible for such a settlement.

### **Financial Concerns/Ability to Pay Settlements**

The EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Cathie Chiccine at 913-551-7917 or Chiccine.catherine@epa.gov for information on ability to pay settlements. In response, you will receive a package of information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business federal income tax returns. If the EPA concludes that Waste Management has a legitimate inability to pay the full amount of the EPA’s costs, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that because the EPA has a potential claim against you, you must include the EPA as a creditor if you file for bankruptcy. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

### **Information to Assist You**

The EPA has established an Administrative Record that contains documents that serve as the basis for the EPA’s selection of a cleanup action for the Site. The Administrative Record is located at <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0720353> and is available to you and the public for inspection. The Administrative Record is also available for inspection at the Superfund Records Center, EPA Region 7, 11201 Renner Blvd., Lenexa, Kansas, 66219.

### **Resources and Information for Small Businesses**

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf> and review the EPA guidance regarding these exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>.

In addition, if you are a “service station dealer” who accepts used oil for recycling, you may qualify for an exemption from liability under Section 114(c) of CERCLA. The EPA guidance regarding this exemption can be found on the Agency’s website at <http://www.epa.gov/enforcement/guidance-superfunds-service-station-dealers-exemption>. If you believe you may qualify for the exemption, please contact Cathie Chiccine at 913-551-7917 or [Chiccine.catherine@epa.gov](mailto:Chiccine.catherine@epa.gov) to request an application/information request specifically designed for service station dealers.

The EPA has created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses>. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, which is enclosed with this letter and available on the Agency’s website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact Cathie Chiccine at 913-551-7917 or [Chiccine.catherine@epa.gov](mailto:Chiccine.catherine@epa.gov). Thank you for your prompt attention to this matter.

Sincerely,

Robert D. Jurgens, Director  
Superfund and Emergency Management Division

cc: Amie Davidson, Iowa Department of Natural Resources (via email only)  
Catherine Chiccine, EPA Office of Regional Counsel (via email only)