

9441.1986(79)

October 20, 1986

Mr. J. Mark Morford
Stoel, Rives, Boley, Fraser, and Wyse
900 S. W. Fifth Avenue
Suite 2300
Portland, Oregon 97204-1268

Dear Mr. Morford:

This is in response to your letters of August 14 and September 26, 1986, regarding the regulatory status of the materials--namely, zinc bar, nickel plate, cadmium plate, and steel scrap that are removed from spent alkaline batteries. In particular, you request confirmation that the materials removed from these batteries are scrap metal, and that they are exempt from the hazardous waste regulations. As we discussed, scrap metal (as defined in §261.1(c)(6))^{1/} is currently exempt from the Federal hazardous waste regulations whether or not the scrap metal exhibits one or more of the hazardous waste characteristics. See 40 CFR §261.6(a)(3)(iv). In looking at the samples you sent me, I agree with you that these materials are scrap metal, and if recycled, would be exempt from regulation under the Federal hazardous waste rules.^{2/}

I must make you aware, however, that if these materials (i.e., zinc bar, nickel plate, cadmium plate, steel scrap) when removed from the battery are mixed with non-scrap metal type material, the mixture would not be considered a scrap metal, and would be subject to regulation if the mixture itself exhibits one or more of the hazardous waste characteristics. (This would not be the case if the scrap metal only contained as oily film.)

1/ "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled)

2/ As you are aware, the State of Oregon's hazardous waste regulations may be more stringent than the Federal program. Therefore, you need to check with the State regarding the regulation of these materials.

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For example, when spent lead-acid batteries are cracked to recover the lead, the material removed from the battery is a mixture of scrap plate and a lead oxide sludge type material. The mixture, we have determined, is not scrap metal; in addition, we have also determined that this mixture is hazardous since it exhibits one or more of the hazardous waste characteristics. Therefore, the lead material recovered from spent lead-acid batteries is subject to the hazardous waste rules. If, however, the material removed from spent alkaline batteries is just "scrap metal," this material (if recycled) would be exempt from the Federal hazardous waste rule.

Please feel free to give me a call if you have any further questions; my telephone number is (202) 475-8551.

Sincerely,

Matt Straus, Chief
Waste Identification Branch

cc: Jan Whitworth (Oregon DBC)
Ken Feigner (EPA Region X)

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