UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

Date: 11.19.2021

COVERSHEET: EXPLANATION OF CITATION AND/OR TERMINOLOGY CHANGES IN THIS POLICY DOCUMENT

This policy document remains wholly in effect, but some or all of the regulatory citations within it have changed. These changes do not alter the existing regulatory interpretations.

As part of the 2016 Hazardous Waste Generator Improvements Rule, many of the regulations that apply to hazardous waste generators were moved to, or reorganized within, title 40 of the Code of Federal Regulations (CFR) part 262. To view a crosswalk between the old and new citations, please visit the Hazardous Waste Generator Regulations Crosswalk webpage.

The Hazardous Waste Generator Improvements Rule also made changes to terms that may be included in this document. The most common term change was replacing "conditionally exempt small quantity generators" (CESQGs) with "very small quantity generators" (VSQGs). In addition, EPA defined the term "central accumulation area" (CAA) to mean a generator's 90- or 180-day accumulation area for hazardous waste.

Jessica Young

Jessica Young
Chief of the Recycling and Generator Branch
Office of Resource Conservation and Recovery

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JULY 14, 1993

MEMORANDUM

SUBJECT: Response to Request for Opinion on Section 21 Petition on Battery Deposits

FROM: David Bussard, Director
Characterization and Assessment Division
Office of Solid Waste

TO: John W. Melone, Director
Chemical Management Division
Office of Prevention, Pesticides, and Toxic Substances

Thank you for your request for our input on your response to the TSCA Section 21 petition you have received requesting that the Agency mandate deposits for lead, cadmium, and mercury batteries. As you know, regulations promulgated under the Resource Conservation and Recovery Act control the management of wastes. Generally, the universe of wastes are managed under two programs; Subtitle D governs the management of non-hazardous solid waste (e.g., municipal waste), and Subtitle C governs the management of wastes that are identified as hazardous.

Some spent batteries containing lead, cadmium, and mercury would be identified as hazardous waste under our Toxicity Characteristic due to the content of these metals. I will address this portion of the waste battery stream. You have also asked Bruce Weddle, Director of the Municipal and Industrial Solid Waste Division, for his input and he will address the non-hazardous portion of the battery waste stream. In addition, certain hazardous wastes (including batteries) are generally exempt from the hazardous waste program and are managed under the non-hazardous solid waste program. These include hazardous wastes (i.e., batteries) generated by households (40 CFR 261.4(b)(1)), and by Conditionally Exempt Small Quantity Generators (40 CFR 261.5). Bruce will also address these wastes in his comments.

With respect to the risks from disposal of batteries, our Toxicity Characteristic (TC) is designed to identify those wastes which may pose a risk to human health and the environment under a reasonable worst-case mismanagement scenario. As such, the fact that hazardous waste batteries fail the TC does indicate that there may be risks from uncontrolled disposal. Nevertheless, our regulatory program is designed to control the risks posed during transport, storage, treatment, and recycling or disposal.

Thus, under Subtitle C of RCRA hazardous waste batteries are required to be managed in such a way that the Agency believes is protective of human health and the environment.

In addition, we have proposed modifications to our regulations designed to simplify the Subtitle C requirements specifically for hazardous wastes, such as batteries, that we call "universal" wastes. A copy of the proposal is attached (58 FR 8102, February 11, 1993). We believe that, when final, this regulatory change will make compliance with the Subtitle C requirements more practical for universal wastes and will thus increase the quantities of batteries properly disposed of or recycled. In addition, this rule will facilitate collection programs required by state legislation or sponsored by localities or manufacturers and will thus further encourage proper management.

With respect to the success of deposit systems in effecting the return of waste items, my division does not have direct experience with these programs and would defer to Bruce Weddle, who has experience with municipal programs, and to OPPE, who have examined non-regulatory options for reaching environmental objectives.

Regarding increasing recycling of hazardous waste batteries, we certainly support recycling as an important part of the waste management hierarchy. However, given the uncertainties that exist regarding recycling of these batteries (e.g., capacity concerns, the economics of recycling, the current low price of some of these metals), I would like to point out that in our universal wastes proposal we requested comment on whether management of collected universal wastes (including batteries) should be limited to recycling, or whether both Subtitle C controlled disposal and recycling should be options. Although we have not completed analysis of the comments, in general commenters supported having both options available and allowing those collecting the wastes to determine which option was most appropriate for their individual situation.

Based on our experience with battery collection issues, one impediment to recycling is the difficulty (and cost) of identifying and sorting the various battery chemistries. To encourage recycling both by alerting the user to recycling options and by making sorting easier, we would support publishing an Advanced Notice of Proposed Rulemaking on battery labeling or marking. In addition to requesting comment from the battery industry based on their expertise, issues that might be addressed in such a notice include compatibility with existing state labeling requirements, how best to assist users in identifying battery types, and whether labeling is the best way to facilitate sorting of mixed batteries (i.e., are there mechanical sorting options?).

Thank you for the opportunity to provide input to your decision making process. If you have any questions or if I can be of any further assistance please call me at 260-4637, or have your staff contact Charlotte Mooney, of my staff, at 260-6926.

cc: Nancy Laurson, OPPTS