

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

SEPTEMBER 14, 1995

Mr. Patrick Wlodarczak
GNB Battery Technologies
14500 Nelson Avenue
P.O. Box 1567
City of Industry, CA 91749

Dear Mr. Wlodarczak:

This is in response to your August 21, 1995 letter to David Bussard concerning the status of unused off-specification lead plates used in the production of lead-acid automotive batteries. In your letter, you asked for EPA concurrence that the plates are not regulated as solid waste under RCRA because (a) the plates are off-specification commercial chemical products being reclaimed and (b) because the plates are scrap metal being recycled.

We concur with you on the first point. Because the material you describe is an off-specification commercial chemical product being reclaimed, it is not subject to the definition of solid waste. We further concur with your reading of the April 11, 1985 Federal Register (FR 50 14219). Although the material you describe is not a listed commercial chemical product, the status of non-listed commercial chemical products is the same as those listed under 40 CFR §261.33; "that is, they are not considered solid wastes when recycled except when they are recycled in ways that differ from their normal use" (FR 50 14219).

This interpretation is accurate only if the materials you describe are unused. If they have been used prior to recycling, they are considered spent materials being reclaimed and are therefore regulated as solid waste under 40 CFR §261.2(c)(3).

As for your second point, we are unable to concur with your assertion that the lead plates used in the production of lead-acid batteries meet the definition of scrap metal and are for that reason exempt from the definition of solid waste when recycled.

If you have any additional questions, please contact Stephen Bergman of my staff at (202) 260-5944.

Sincerely,

Michael Petruska, Chief
Regulatory Development Branch

Faxback 11917