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United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

December 23, 1993

Mr. Thomas J.P. McHenry  
McCLINTOCK, WESTON, BENSHOOF,  
ROCHEFORT, RUBALCAVA & MacCUISH  
444 South Flower Street  
Forty Third Floor  
Los Angeles, California 90071

Dear Mr. McHenry:

Thank you for your letter of October 4, 1993, concerning the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations governing the management of lead-acid batteries that are recycled. You requested clarification of how these regulations would apply to a battery storage area owned by the owner of one or more lead-acid battery recycling facilities (e.g., battery crackers or secondary smelters), but not co-located with any battery recycling facility.

In general, you are correct that we interpret 40 CFR 266.80(a) to apply to facilities at which spent lead-acid batteries are stored, but not reclaimed, regardless of what battery management activities the owner of the storage area may conduct at other locations. Similarly, we interpret 40 CFR 266.80(b) to apply to facilities at which spent lead-acid batteries are both stored and reclaimed. In addition to the preamble language you quoted from the proposal for this regulation (48 FR 14499), the preamble discussion for the final rule also clearly indicates that our intent was to regulate storage facilities based on the activities conducted at the facility rather than on activities conducted by the owner at other locations (50 FR 649).

Beyond this general discussion of the federal RCRA regulations, we are not able to address the specifics of your client's situation. The lead-acid battery recycling regulations are implemented by authorized state agencies (or the appropriate EPA

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regional offices), and they are the appropriate agencies to contact to determine how these regulations may be applicable to any specific location. Please note also that state hazardous waste regulations may be more stringent than the federal regulations.

I hope this information is useful to you. If you have any further questions concerning this issue, please contact Charlotte Mooney, of my staff, at (202) 260-6926.

Sincerely,  
Michael H. Shapiro  
Director  
Office of Solid Waste

cc: Laura Yoshi, Deputy Director for Waste Programs, EPA  
Region IX; Claudia Moore, California Department of Toxic  
Substances Control