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Hotline Questions and Answers

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3. Spent Lead-Acid Batteries and Counting Requirements

EPA promulgated specific requirements for counting hazardous wastes to facilitate accurate determination of monthly generator status. While most hazardous wastes produced at generator sites are counted in the monthly quantity determination, some special hazardous wastes are exempt for this requirement (261.5(c)). If a generator is accumulating spent lead-acid batteries that will be sent for reclamation, should the batteries be counted towards the determination of monthly generator status?

Spent lead-acid batteries that will be sent for reclamation are not subject to the monthly generator counting requirements. Hazardous waste is counted only if it is subject to substantive regulation (40 CFR 261.5(c)). Substantive regulations are those regulations which directly relate to the storage, transportation, treatment, or disposal of hazardous waste (51 FR 10152; March 24, 1986). Persons who generate, transport, or store spent lead-acid batteries destined for reclamation, but who do not reclaim them themselves, are not subject to substantive regulation, specifically Parts 262-266, 270 or 124 (40 CFR 266.80). Therefore, spent lead-acid batteries destined for reclamation are not counted when determining monthly generator status. Such wastes should not be counted because they are not subject to regulation in the hands of the generator (59 FR 14218; April 11, 1985).