

PPC 9497.1996(01)

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

June 19, 1996

Mr. Christopher Bryant
The Technical Group, Inc.
1300 I Street, NW
Suite 1000 West
Washington, DC 20005

Dear Mr. Bryant:

Thank you for your letter of March 14, 1996 regarding the applicability of 40 CFR Section 266.80 to the management of spent lead-acid batteries that are destined for reclamation. Specifically, you request the regulatory status of spent lead-acid batteries in the following situation:

A truckload of spent lead-acid batteries is shipped to a secondary lead smelter for reclamation. The truck arrives at the secondary lead smelter, where it is weighed. The truck remains on site at the smelter for less than 24 hours and the batteries remain on the truck. Nothing is done to the batteries while they remain on site in the truck. The truck then is driven to an off-site warehouse where the batteries are stored for 30 days before they are shipped back to the smelter for reclamation.

Based on the information provided in this scenario, it appears that the spent lead-acid batteries remain exempt under 40 CFR Section 266.80. This section applies to "persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent materials"). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are not subject to regulation under parts 262 through 266 or part 270 or 124" This exclusion does not apply to leaks and discharges from lead-acid batteries. Materials generated from a leak or discharge become newly generated wastes and, as such, are subject to a hazardous waste determination.

Please be aware that under Section 3006 of RCRA (42 U.S.C. Section 6926) individual States can be authorized to administer and enforce their own hazardous waste programs in lieu of the Federal program. When States are not authorized to administer their own program, the appropriate EPA Regional

RO 14039

office administers the program and is the appropriate contact for any case-specific determinations. Please also note that under Section 3009 of RCRA (42 U.S.C. Section 6929) States retain authority to promulgate regulatory requirements that are more stringent than Federal regulatory requirements.

I hope that this letter sufficiently responds to your questions and concerns. If you have any further questions or comments, please contact Kristina Meson of my staff at (703) 308-8488.

Sincerely yours,

Michael Shapiro, Director
Office of Solid Waste