

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

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Edward F. Wandelt
Chief, Environmental Management Division
United States Coast Guard
2100 Second Street, S. W.
Washington, DC 20593-0001

Dear Mr. Wandelt:

This is in response to your letter dated December 19, 1996, in which you requested confirmation that mercury batteries recovered from the water near aid to navigation (ATON) structures satisfy the definition of debris under 40 CFR 268.2 (g). If these batteries are considered debris, they would be subject to special standards under the Land Disposal Restrictions (LDRs) for debris at 40 CFR 268.45 in lieu of otherwise applicable standards for mercury wastes found in Section 268.40.

Upon careful review of the information you submitted, the Agency has determined that these batteries satisfy the definition of debris under 40 CFR 268.2 (g). As a solid material meeting the general debris criteria of that paragraph, the main question is whether the batteries in question are excluded from the definition as "containers". We find that the exclusion from the definition of debris for ". . . Intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume..." does not apply to the batteries you have described.

In the preamble which established this definition, EPA states that, "By 'intact container', the Agency means a container that can still function as a container." (57 FR 37225, August 18, 1992). Because the batteries, as you have described, are deteriorated and have holes which have allowed material to flow into and out of the batteries, we conclude that the batteries are ruptured, cannot function as containers, and therefore are not excluded from the definition of debris under 40 CFR 268.2 (g). As such, the batteries may be land disposed after treatment in accordance with the standards for hazardous debris at 40 CFR 268.45. The Agency agrees that these alternative debris standards are more appropriate to these batteries than the standards for non-debris mercury wastes, which would require either roasting or retorting (RMERC) or compliance with a TCLP standard. Clearly, the batteries in question do not seem appropriate for retorting.

If you have further questions, please contact Shaun McGarvey of my staff at

RO 14215

703-308-8603.

Sincerely,

James R. Berlow, Director
Hazardous Waste Management and
Minimization
Division