

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

March 17, 1997

Mr. Duncan Campbell
Environmental Protection Agency, Region V
RCRA Enforcement
77 West Jackson Boulevard
Chicago, Illinois 60604-3507

Dear Mr. Campbell:

Enclosed please find a memorandum on the regulatory status on lead shot, which includes a general discussion on the regulatory status of lead shot as scrap metal. I hope that this information is sufficient to address your specific concerns as they relate to the pile of lead shot at the Saxon Metals facility.

If you have any questions or would like to discuss this matter further, please contact me at (703) 308-8826.

Sincerely,

Jeffery S. Hannapel
Office of Solid Waste

Enclosure

Faxback# 14070

To: Duncan Campbell, EPA Region V

From: Jeff Hannapel, EPA Office of Solid Waste

Date: March 13, 1997

Re: Regulatory Status of Lead Shot

Based on our conversations, it is my understanding that Saxon Metals received for recycling a shipment of approximately 30,000 pounds of lead shot from a commercial indoor shooting range. Smokeless gun powder is, presumably, commingled with the lead shot. The mixture appears to exhibit the ignitability characteristic of hazardous waste (as evidenced by the incident in which the material ignited when Saxon Metals was attempting to load it into the furnace with a front-end loader). You have asked our office to provide you with guidance on the regulatory status of the lead shot portion of the mixture, specifically whether it is considered a spent material or scrap metal.

The Agency has taken the position that the discharge of ammunition or lead shot does not constitute hazardous waste disposal because the Agency does not consider the rounds from the weapons to be "discarded." As you know, discard is a necessary criterion to be met before a material can be considered a solid waste and subsequently a hazardous waste. 40 CFR §261.2(a). The Agency's interpretation regarding discard is based on the fact that shooting is in the normal and expected use pattern of the manufactured product, *i.e.*, the lead shot. Enclosed for your information is a September 6, 1988 letter from EPA to IDEM on this particular point.

In the federal regulations, the term, "scrap metal," is defined as "bits and pieces of metal parts (*e.g.*, bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (*e.g.*, radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled." 40 C.F.R. §261.1. In the *Federal Register* preamble for the final regulations on the definition of solid waste, EPA indicated that "scrap metal is defined as products made of metal that become worn out (or are off-specification) and are recycled to recover their metal content, or metal pieces that are generated from machine operations (*i.e.*, turnings, stampings, etc.) which are recycled to recover metal." 50 Fed. Reg. 614, 624 (1985). The lead shot portion of the Saxon Metals pile would be considered scrap metal pursuant to the regulatory definition of scrap metal.

EPA provided further clarification on the regulatory status of scrap metal in the *Federal Register* preamble to the definition of solid waste final regulations:

[a]t proposal, scrap metal that was generated as a result of use by consumers (copper wire scrap, for example) was defined as a spent material. (This type of scrap is usually referred to as "obsolete scrap.") Scrap from metal processing, on the other hand (such as turnings from machining operations) was defined as a by-product. (It is usually called "prompt scrap.") Yet the scrap metal in both cases is physically identical (*i.e.*, the

composition and hazard of both by-product and spent scrap is essentially the same) and, when recycled is recycled in the same way - by being utilized for metal recovery (generally in a secondary smelting operation).

In light of the physical similarity and identical means of recycling of prompt scrap and obsolete scrap, the Agency has determined that all scrap metal should be classified the same way for regulatory purposes. Rather than squeeze scrap metal into either the spent material or by-product category, we have placed it in its own category.

50 Fed. Reg. at 624. Based on these regulatory passages, the lead shot portion of the pile would be considered scrap metal, and not a spent material. The lead shot is a product that is made of metal that can be recycled to recover metal content. Furthermore, the lead shot has not been "discarded" by virtue of its discharge at the shooting range, because the discharge is within the normal and expected use pattern of the manufactured product. Accordingly, lead shot would be considered scrap metal for regulatory purposes. Scrap metal is a solid waste, but it is *exempt* from the regulatory requirements of Subtitle C when it is recycled. 40 C.F.R. §261.6(a)(3)(ii). As part of the Phase IV land disposal restrictions supplemental rulemaking (which was proposed January 25, 1996 and is expected to be finalized in April 1997), processed scrap metal and two categories of unprocessed scrap metal that is being recycled would be *excluded* from RCRA jurisdiction.

Please note that this discussion of the regulatory status is limited to the lead shot portion of the pile as you requested. To the extent that the entire pile exhibits the ignitability or reactive characteristic of hazardous waste, the mixture of materials would be considered hazardous waste and not scrap metal. The scrap metal designation for the lead shot would be applicable only to the extent that the lead shot could be segregated from the other materials in the pile.

I hope that this guidance on the regulatory status of lead shot recovered from shooting ranges provides you with the clarification that you needed. If you have any questions or would like to discuss this matter further, please contact me.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

SEP 6 1988

Ms. Jane Magee
Assistant Commissioner for
Solid and Hazardous Waste Management
Indiana Dept. of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015

Dear Jane:

This is in response to your letter on the applicability of Resource Conservation and Recovery Act (RCRA) regulations to shooting ranges. In your letter you indicated that the Indiana University in Bloomington has received a preliminary notice of intent to sue under RCRA, alleging that the university shooting ranges are hazardous waste landfills, fully subject to the requirement for an operating permit and all applicable facility standards.

The discharge of ball and sport ammunition at shooting ranges does not, in our opinion, constitute hazardous waste disposal. This is because we do not consider the rounds to be discarded, which is a necessary criterion to be met before a material can be considered a solid waste and, subsequently, a hazardous waste (see 40 CFR 261.3(a)). Rather, the shooting of bullets is within the normal and expected use pattern of the manufactured product. This interpretation extends to the expended cartridges and unexploded bullets that fall to the ground during the shooting exercise. The situation, in our mind, is analogous to the use of pesticides whereby the expected, normal use of a pesticide may result in some discharge to the soils. This is a discharge incident to normal product use and is not considered a hazardous or solid waste activity falling under the jurisdiction of RCRA.

If you have any questions regarding our interpretation or would like to discuss the issue further, please call Elizabeth Cotsworth (202) 382-3132 or Chet Oszman (202) 382-4499.

Sincerely,

Sylvia K. Lowrance Director
Office of Solid Waste

Cc: Elizabeth Cotsworth

Faxback# 14070

Matt Hale, OSW
Fred Chaziana, OGc
Karl Bremer, Region 5
Chet Oszman, OSW