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LEAD CONTAMINATION RESULTING FROM SKEET SHOOTING

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

September 23, 1993

Honorable Mitch McConnell  
United States Senate  
Washington, D.C. 20510

Dear Senator McConnell:

Thank you for your letter of July 15, 1993, regarding the concerns of Charles Hotchkiss about the possibility of lead contamination in the Ohio River, resulting from skeet shooting at the Ohio County (Indiana) Sportsman's Club.

Due to concerns about the potential for adverse impacts of lead ammunition on the environment, the Environmental Protection Agency (EPA) would encourage a pollution prevention approach for ammunition use. Specifically, in those instances where substitute materials other than lead can be used for ammunition, we would encourage their development and use. We understand that Mr. Hotchkiss has been informed by sporting goods dealers that steel shot is an unsuitable substitute for lead shot in skeet shooting. However, from the limited research my staff has conducted, it is possible that shot composed of substances other than lead, in at least some circumstances, may be appropriate as a substitute for lead shot. Steel shot is widely available, and there has been at least one recent report (Field and Stream, March 1993) that a shotshell with bismuth shot pellets is now on the market.

With respect to legal options for addressing such sites, there have been recent developments in case law concerning lead ammunition used at a skeet shooting range in Connecticut. On March 29, 1993, the U.S. Court of Appeals for the Second Circuit decided a case concerning a Connecticut skeet shooting range's use of lead ammunition, which landed in Long Island Sound (Connecticut Coastal Fishermen's Association v. Remington Arms Co. Inc., 989 F.2d 1305 (2d Cir. 1993). Among other things, the court's decision addressed

the applicability of certain provisions of the Resource Conservation and Recovery Act (RCRA) to lead ammunition used at the skeet shooting facility. The court affirmed the district court's decision that the lead ammunition deposited into Long Island Sound is "solid waste" under RCRA's statutory definition of solid waste, and that it is also "hazardous solid waste" under the statute. Accordingly, under the Second Circuit opinion, where such materials pose an "imminent and substantial endangerment" to health or the environment, a citizen may bring a lawsuit under RCRA section 7002 (a)(1)(B) [42 U.S.C. 6972 (a)(1)(B)].

With respect to the "clay pigeons" Mr. Hotchkiss mentioned in his letter, the district court addressed these targets, for skeet and trap shooters. While the district court did not determine whether the targets at the Long Island Sound site were hazardous wastes, the appeals court did find that they are "solid wastes" under RCRA, and subject to suits by citizens if they are found to present an imminent and substantial endangerment.

I hope this information is helpful. If you would like further information, specifically concerning the Ohio County Sportsman's Club in Indiana, please contact Norman R. Neidergang, Associate Division Director for RCRA in U.S. EPA Region 5, at (312) 886-7435, or David Wersan, Assistant Commissioner for the Office of Solid and Hazardous Waste Management in the Indiana Department of Environmental Management, at (317) 232-3210. We appreciate your interest in the environment.

Sincerely yours,  
Jeffrey D. Denit, Acting Director  
Office of Solid Waste