QUESTION:

How does a generator determine if a manufactured article (such as a battery) is a hazardous waste because of the EP toxicity (40CFR 261.24) characteristic?

ANSWER:

The EP toxicity test procedure (40CFR 261, Appendix II) requires that a representative sample of the material be prepared for extraction by crushing, cutting or grinding the sample into pieces which can pass through a 9.5 mm sieve. If after extraction, none of the concentration limits listed in 40CFR 261.24, Table 1 are exceeded, the manufactured article is not hazardous and can be disposed of in a sanitary landfill. Manufactured articles that yield extracts which exceed one or more of the concentration limits are hazardous wastes and must be disposed of in accordance with RCRA regulations. The difficulty arises with manufactured articles that contain a hazardous material encased in a leak resistant container.

Some batteries pose a special problem because they tend to degrade rapidly when placed in a landfill due to chemical changes resulting from final discharge of the battery. Certain batteries are manufactured in such a manner as to prevent disintegration after disposal. These types of products may be tested without being cut-up. At this time EPA has not developed testing thresholds for identifying these products. Pending development of such tests, a generator may evaluate the corrosion resistance of batteries by submerging the battery in a salt water solution for a period of one month. If no leak occurs, the product can be considered corrosion resistant. If the package is structurally resistant to crushing, cutting or grinding, it can be analyzed for toxicity without being cut-up. For most manufactured articles other than batteries, the salt water corrosion resistance test may also be used but at an elevated temperature, higher morality solution, or for a longer duration (i.e., one year).

SOURCE: Dave Friedman