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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 30 1991

Mr. Paul E. Pentz  
Executive Vice President, C.O.O.  
SERVISTAR Corporation  
P.O. Box 1510  
Butler, PA 16003-1510

Dear Mr. Pentz:

This letter responds to your letter of May 13, 1991 concerning the regulation of nickel-cadmium, (NiCd) batteries under the Resource Conservation and Recovery Act (RCRA) and state legislation requiring manufacturers to take back spent batteries (take-back programs). We appreciate your interest in developing recycling programs for NiCd batteries and in the RCRA regulation of these programs. We commend your recycling efforts and hope that you will be developing recycling systems not only in states passing take-back legislation, but nation-wide.

We are considering the points that you raise in your letter concerning the difficulties involved in implementing recycling programs for NiCd batteries if they exhibit the TC. We are currently examining the available options to determine how to facilitate the kind of take-back system you describe. We expect it will take us several more weeks to assess options and reach a tentative decision on how to best address your concerns. At that time, we will notify you of the results of our analysis and of our plans to implement the decision.

To ensure that you are informed about our approach to this issue, there are several options that we are exploring. First, we are investigating what could be accomplished in the short term to alleviate the problems you have identified. One possibility is to extend the current regulations governing lead-acid battery reclamation to spent NiCd battery reclamation. As part of this effort, we will be evaluating issues such as the size of the problem, the hazards posed by NiCd battery waste management and recycling practices, and the feasibility of possible solutions.

Second, over the longer term, we are currently analyzing the RCRA regulations to determine how they could best be modified to encourage environmentally sound recycling of hazardous wastes. In particular, we are evaluating how to address reverse distribution systems that involve the return of hazardous wastes

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to product manufacturers. In any case, we will continue with this longer term effort to examine fully how best to address this difficult issue, including the possibility of changes to the regulations to accommodate take-back systems.

Finally, we would like to be sure that you are aware that under the current federal regulations, hazardous wastes generated by certain persons are not subject to the full hazardous waste regulations even when subsequently collected and managed by others. Particularly, these excluded wastes include household wastes generated by individuals at home (40 CFR 261.4(b)(1)) and hazardous wastes generated by conditionally exempt small quantity generators (generators who generate a total of less than 100 kilograms of hazardous waste per month; 40 CFR 261.5).

Thank you for your interest in the hazardous waste regulations concerning recycling of NiCd batteries. Should you have any further questions regarding this issue, please contact Mike Petruska, Chief of the Regulatory Development Branch, at (202) 475-8851.

Sincerely,

Original Document signed

David Bussard  
Director  
Characterization and Assessment  
Division