

9455.1991(03)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

DEC 10 1991

Jack Whalen
Hamanna Alloys Corporation
441 Lexington Avenue
New York, NY 10017

Dear Mr. Whalen:

Thank you for your letter of October 31, 1991 to Mike Petruska in which you inquired about the regulation of recovered lead and lead alloys from used batteries and other suitable sources, and the export of these components to other countries. There are potentially numerous regulations applicable to recovery of lead and lead alloys from batteries, depending on the particular situation. Based on your letter I will list the major ones here; however, please note that this list may not be exhaustive: 40 CFR Parts 124, 260.10, 260.30(c), 261.1(c)(6), 261.2(c), 261.3(a)(2)(i), 261.6(a)(3)(iv), 261.22, 262.34, 263, 264.1(g)(6), 265.1(c)(10), 266 Subpart G, 266.80(a), 266.80(b)(1)-(4), 268.7(a)(4), and 270. Because analysis of the appropriate regulatory scheme is material-specific, I cannot address lead and lead alloy recovery from "other suitable sources."

Hazardous waste export regulations are found at 40 CFR Part 262 Subpart E. The governmental notification process is generally as follows. The exporter notifies EPA's Office of Waste Programs Enforcement in writing of his/her intent to export. This notification must contain certain information (see the regulations cited above). EPA then sends the written notification to the U.S. State Department, which then cables it to the government of the receiving country. The receiving country then cables the State Department with its consent or rejection, and includes conditions for acceptance, if any. The State Department forwards the cable to EPA, and EPA forwards it to the exporter. Upon the exporter's receipt, this document is called the EPA Acknowledgement of Consent (AOC). The exporter must attach a copy of the AOC to the manifest accompanying the shipment, and must forward a copy to the U.S. Customs Service (a manifest may be obtained from your state if it has its own, or from any source if it does not). Transit countries, if any, are also notified within this process; however, if a transit country refuses the shipment it is the exporter's responsibility to make other arrangements.

RO 11658

-2-

Under the terms of separate bilateral agreements with Canada and Mexico, this process is slightly different. For exports to Canada, EPA deals directly with its counterpart, Environment Canada, and the U.S. State Department and other diplomatic entities do not become involved. The consent process is "tacit" instead of written; that is, Canada has 30 days to accept or refuse a shipment after which, if no acknowledgement is made, the shipment may commence. For exports to Mexico, EPA deals directly with its counterpart, SEDUE, but copies of all relevant documents are forwarded to the State Department and normal diplomatic entities.

As you may be aware, President Bush signed the Basel Convention on the Transboundary Movement of Hazardous Wastes on March 22, 1990. This may have additional implications for hazardous waste exports depending on whether the U.S. formally ratifies Basel, and on what form the implementing legislation takes.

Sincerely,

Original Document signed
"Elizabeth LaPointe for"

David Bussard, Director
Characterization and
Assessment Division

Enclosure

RO 11658