

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

November 25, 1996

MEMORANDUM

SUBJECT: Mercury-Containing and Rechargeable Battery Management Act

FROM: Michael Shapiro, Director  
Office of Solid Waste

TO: Senior RCRA Policy Managers  
Regions I-X

The "Mercury-Containing and Rechargeable Battery Management Act" was signed by the President on May 13, 1996. The law became immediately effective nationwide on the date of signature. The law has two primary goals, the first of which is to limit the mercury content in consumer batteries. The second is to promote recycling and proper disposal of used rechargeable nickel cadmium batteries, sealed small lead acid batteries, and certain other types of rechargeable batteries now widely used in consumer products.

In order to achieve the first purpose, the law sets limits on the mercury content of certain battery types and prohibits the sale of other types of mercury-containing batteries in the United States. The law also requires that if a product manufactured after May 13, 1997, contains a rechargeable battery containing a cadmium or lead electrode, the battery must be easily removable. It also establishes uniform national labeling requirements and requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the May 11, 1995 Universal Waste rule (60 **FR** 25492): used rechargeable batteries, lead-acid batteries not covered by 40 CFR part 266 subpart G, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. Finally, the law prohibits States from imposing requirements that are not identical to those found in the May 11, 1995 Universal Waste rule, but allows States to adopt and enforce standards identical to those in the law for labeling, and to implement and enforce collection, storage, and transport requirements identical to those included in the Universal Waste rule.

Since the enactment of the law, a great deal of confusion has arisen among State waste management officials, as evidenced by the number of inquiries OSW has received with respect to state implementation and enforcement. OSW is currently assessing how States will be Federally approved to implement and enforce the law, which as discussed above, imposes Federal

Universal Waste standards effective immediately. The law, however, is not an amendment to RCRA. Thus, the requirements of section 3006 of RCRA do not apply to the authorization of States to implement its provisions. Until these State authorization issues are resolved, OSW recommends that States, not make any changes to the provisions regarding batteries while in the process of adopting the Universal Waste rule primarily, because the new law provides only for the implementation of State rules that are identical to the Federal provisions. States may accomplish this by incorporating the Rule by reference, or adopting this part of it verbatim.

I have attached a copy of the law for your information and ask that you share this memo, as well as the attached copy of the law, with appropriate State officials. In the meantime, OSW is developing a codification rule that will incorporate the waste management provisions of the law into the Code of Federal Regulations. OSW is compiling a list of questions received from correspondence and will address them in the preamble of the codification rule. If you have questions regarding the codification rule, please contact Bryan Groce of my staff at (703) 308-8750. If you have questions regarding the battery labeling provisions of the law, please contact Sue Nogas of my staff at (703) 308-7251. If you have questions regarding State authorization, please contact Wayne Roepe of my staff at (703) 308-8630. Questions related to enforcement authority should be directed to Betsy Smidinger of the Office of Enforcement and Compliance Assurance at (202) 564-4017.