



Our ref: BR146

Ms Katharine Hole
Chief Executive Officer
Australian Battery Recycling Initiative

By email: secretariat@batteryrecycling.org.au

Dear Ms Hole

Used lead acid batteries (lead and lead compounds D220)

Thank you for your recent correspondence and several of your members' engagement with EPA. We acknowledge the commitment of the Australian Battery Recycling Initiative and its members to the safe management and recycling of batteries, with specific reference to Used Lead Acid Batteries (ULAB).

This letter is directed to those businesses handling small numbers of batteries destined for consolidation and eventual reprocessing at a licenced premises.

EPA understands your concerns about the anticipated impact of the *Environment Protection Act 2017* and the Regulations on your businesses. In general, EPA's regulatory approach during the first months of the legislation will be on education and engagement, in order to support businesses to comply. Further, EPA will assess whether there are more appropriate regulatory tools to better manage risks to human health and the environment in particular circumstances. As such, EPA welcomes the opportunity to work with you to create solutions that protect human health and the environment from pollution and waste.

However, please note that EPA expects business to be aware of, and ensure they comply with, the General Environmental Duty (GED), which applies to all Victorians. The obligations operate to ensure that while engaging in an activity that may give rise of harm to human health or the environment from pollution or waste, those risks are minimised as far as reasonably practicable. Further, that it is an offence to engage in conduct that results in material harm to human health or the environment from pollution or waste.

The issue as you have articulated

It is our understanding that battery recyclers in Victoria have not considered intrastate movement of ULAB to be Prescribed Industrial Waste under the *Environment Protection Act 1970* and the Industrial Waste Regulations 2009.

As you are aware, lead acid batteries containing lead and lead compounds as well as batteries containing nickel and cadmium are considered a controlled waste under the National Environment Protection (movement of controlled waste between jurisdictions) measure (NEPM MCW). These wastes are reflected in state-based tracking systems and associated regulations as codes D220 (lead and lead compounds) and D150 (cadmium and cadmium compounds). Other codes may apply as per the chemical composition of the battery.

The amended *Environment Protection Act 2017* and Environment Protection Regulations 2021 list wastes containing compounds of both lead or cadmium to be a Reportable Priority Waste (RPW), which may require tracking and a vehicle permission. Facilities handling these materials for collection, storage or processing require a licence under category A01.

EPA acknowledges this is unlikely to be a practical requirement when handling small numbers of batteries destined for consolidation and eventual reprocessing at a licenced premises. EPA is focused on the prevention of harm to health and the environment. While there is great benefit in the recycling of batteries, they also contain substances toxic to the environment and must be managed as a hazardous material and as a fire risk.

Tracking and transport permissions provide EPA with additional tools to manage hazardous or potentially hazardous wastes, these are particularly relevant for batteries in larger quantities.

Interim response, 8 - 12 months

EPA will assess whether there are more proportionate regulatory tools to better manage risks to human health and the environment in particular circumstances.

It is our understanding that businesses have been effectively treating ULAB as a Priority Waste (as opposed to a Reportable Priority Waste). As we determine the appropriate regulatory tool, EPA will exercise its regulatory discretion. Please refer to publication 1798 (*Compliance and enforcement policy*) - in respect of technical non-compliance with RPW duties related to these wastes. EPA will review this interim measure on a monthly basis to ensure industry practice and risk mitigations are maintained.

Your duties and obligations

In the short-term this would appear to be appropriate as we determine appropriate regulatory tools. Batteries not considered RPW are considered Priority Waste (PW) which includes:

- Duties to take all reasonable steps to ensure waste is received at a lawful place for producers, transporters and receivers.
- Duties to contain the waste in a manner that prevents its escape.
- Duties to ensure any information related to the risk to human health and environment or any other risks are disclosed.
- Duties to isolate the waste to enable resource recovery.

Dangerous goods legislation and obligations remain for the storage and transport of ULAB (Class 8). EPA understands there have been no fire events caused by ULAB in the recent past. This does not negate an event in the future but highlights that industry practice and treatment of ULAB as PW does appear to mitigate some risks. EPA will maintain a zero-tolerance approach to fire risk for ULAB and maintains all available compliance and regulatory discretion.

There are a number of new permissions introduced in the new framework and transitional arrangements remain in place until October or January depending on the permission category. Please refer to EPA Publication 1984 (*Changes to permissions in the waste and resource recovery sector*) for detailed explanation of permission thresholds and requirements. EPA looks forward to working with ABRI and members of industry to gain a detailed understanding of waste battery supply chains and build consensus on practical options for the transport and management of small waste loads.

Thank you for your constructive approach and we look forward to continuing this productive relationship into the future. Should you require further clarification or support please contact Ms Jacquie Stepanoff Director, Policy and Regulation via email to jacquie.stepanoff@epa.vic.gov.au.

Yours sincerely



Lee Miezis
Chief Executive Officer

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