It may be illegal, but the simple re-labeling of 'spent lead-acid batteries' as 'scrap derived from lead-acid batteries' has its adherents . . . and rewards.

Is mislabeling super-charging spent battery exports?

Polemics about the unsafe handling of U.S. hazardous scrap sent abroad have generally focused on discarded electronics and obsolete ships. A third category may need to be added: lead batteries.

The disappearance of mom-and-pop battery-breaking operations in the United States counts as a major achievement of the U.S. Environmental Protection Agency (EPA). Quite a few Superfund sites are still around to remind us of past carelessness.

One reason for surmising a current problem with overseas shipments is that export statistics show strange month-to-month shifts among subcategories while totals for lead-related scrap hold fairly steady. One interpretation is that some shippers have been alerted to the lack of wisdom of labeling an export "spent lead-acid batteries," material that isn't a legitimate export to certain countries. Re-label that stuff—a tempting alternative description is scrap derived from lead-acid batteries—and the problem goes away.

In a move that further aggravated the problem, the EPA has imposed stiffer air emission rules for lead, cutting the permissible level by 90 percent. The change will take effect over several years, with state agencies having some control over the timetable. The eventual outcome is likely to be fewer domestic smelters and more battery scrap leaving the country. Some of that flow would be handled by major battery makers intimately familiar with recipient smelters in, say, Mexico. Some of the expanded exports would move through casual trading channels less susceptible to public scrutiny.

"Many countries do not have protective regulations and controls to properly manage the handling, shipping, recycling and disposal of spent lead-acid batteries and their components," according to the Association of Battery Recyclers, a smelter group. The battery recyclers argued that too stringent a tightening of U.S. standards for airborne lead would encourage the processing of U.S. battery scrap in other countries with weak regulations.

The regulatory tug-of-war ended in a curious split-the-difference action by the Bush administration: A drastic tightening of the standard but with a smaller network of monitoring stations for airborne lead than had been in the original proposal. The Obama administration has proposed undoing the metering curtailment.

The new standards now face court review. An appeals court lawsuit by several smelters lists a variety of objections. Some points touch on whether the EPA has been illegally secretive about the medical research data underlying the rule-making. The plaintiffs want a chance to critique it in detail.

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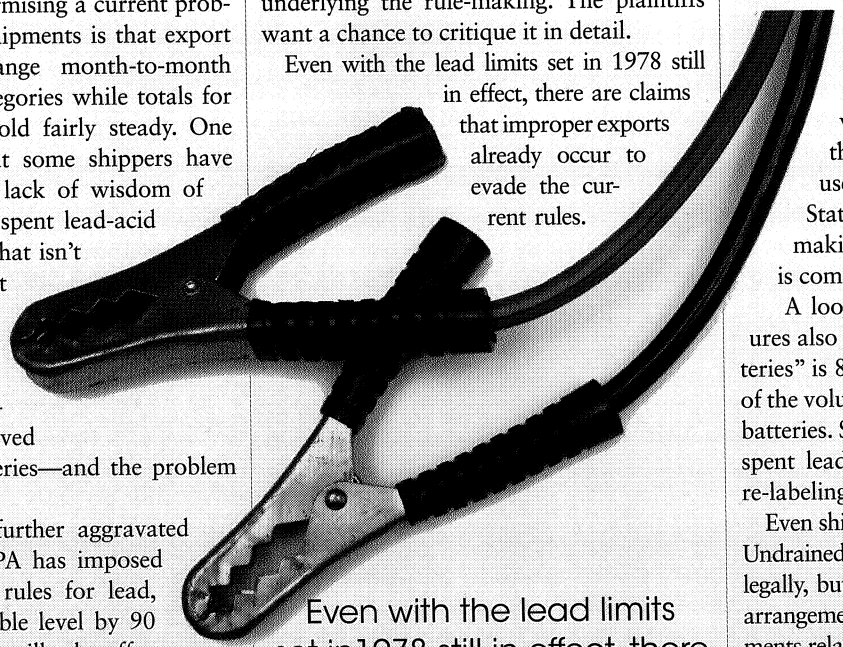

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One red flag in the data is the large category "lead scrap from batteries." That's supposed to refer to batteries that have been broken up and drained of acid. For the latest 12 months tallied (through November 2009), that comes to 106,000 tonnes, or more than 40 percent of lead-related scrap exports. The problem with that set of figures is that independent battery breakers aren't very common these days, having been rendered unprofitable due to environmental enforcement. Smelters are equipped to break batteries big-time, but they do it for on-site consumption, not for export.

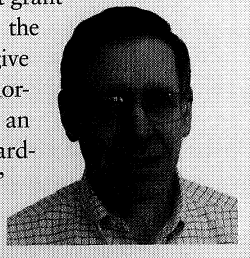
Both factors point to the likelihood of mislabeling. If a spent lead-acid battery is undrained, transportation rules can be complex, particularly if the shipment is waterborne. Call it scrap derived from batteries and you're off the hook.

Chinese regulations require licensing of imported waste batteries. In 2008, Hong Kong's environmental protection office counted 65 shipments of waste lead-acid batteries--totaling about 1,700 tonnes-- that were intercepted and sent back to the countries of origin, Web sites used by traders between the United States and China suggest that deal-making in undrained vehicle batteries is common between the two countries.

A look at India in the U.S. export figures also raises questions. Scrap "from batteries" is 84 percent of the total, while none of the volume is labeled as undrained vehicle batteries. Since India prohibits the import of spent lead-acid batteries, the likelihood of re-labeling is high.

Even shipments to Canada are problematic. Undrained vehicle batteries can be sent there legally, but mislabeling can ease the shipping arrangements. Among U.S.-to-Canada shipments related to lead scrap, 84 percent are described as derived from vehicle batteries and only 6 percent acknowledged as undrained.

A Jan. 8 rule-making by the EPA tightened the export reporting requirements for undrained batteries that are labeled as such. The change won't affect freight that is falsely described, of course. The EPA's comments on the Jan. 8 changes acknowledged that the Association of Battery Recyclers advocated a ban on exports of spent lead-acid batteries to countries outside the Organization for Economic Cooperation and Development, a group of industrial countries that includes Mexico. "EPA cannot grant this request since the statute does not give EPA the legal authority to implement an outright ban on hazardous waste exports," the agency said.



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