

ENVIRONMENTAL PROTECTION AGENCY**[AD-FRL-5327-4]****New Source Performance Standards and Emission Guidelines for Municipal Waste Combustors; Combustion of Lead-Acid Vehicle Batteries****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Supplemental notice/Review of decision.

SUMMARY: On December 20, 1989, the U.S. Environmental Protection Agency proposed standards of performance for new MWC's and emission guidelines for existing MWC's under section 111 of the Clean Air Act (Act). The proposed standards and guidelines included a prohibition on the combustion of lead-acid vehicle batteries in MWC's. On February 11, 1991, the EPA promulgated standards and guidelines for new and existing MWC's. The promulgated standards and guidelines did not prohibit the combustion of lead-acid vehicle batteries. The decision not to include a prohibition on the combustion of lead-acid vehicle batteries was challenged in the U.S. Court of Appeals. The U.S. Court of Appeals issued its decision on July 14, 1992 and remanded the issue of lead-acid vehicle battery combustion to the EPA for further explanation of its decision to remove the lead-acid battery combustion prohibition from the 1991 MWC regulations. This supplemental notice responds to the remand.

In response to the remand, the EPA presents the following discussion on the issue of lead-acid battery combustion in MWC's. Based on the information and test data discussed below, the EPA concludes it is unnecessary to include lead-acid battery combustion restrictions in the standards or guidelines and no lead-acid battery combustion prohibitions are being established. This notice describes the basis of the EPA's decision.

ADDRESSES: *Docket:* Docket No. A-89-08, containing the information considered by the EPA in reaching a decision with respect to lead-acid battery combustion, is available for public inspection and copying between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday excluding Federal holidays, at the EPA's Air and Radiation Docket and Information Center, Room M1500, 1st floor, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this Federal Register notice.

- I. Background
- II. Basis of the EPA's 1991 Decision
- III. Supplemental Information on Lead-Acid Batteries in Municipal Solid Waste
- IV. Supplemental Information on the Effects of Lead-Acid Battery Combustion on MWC Emissions
- V. Conclusions Regarding the EPA's 1991 Decision

I. Background

On December 20, 1989, the EPA proposed standards (subpart Ea) and guidelines (subpart Ca) for new and existing MWC's under section 111 of the Act, 42 U.S.C. section 7411. The proposed standards and guidelines included a prohibition on the combustion of lead-acid vehicle batteries in MWC's. The EPA's intent in proposing the prohibition was to reduce the amount of lead (Pb) in the municipal solid waste (MSW) stream and, therefore, reduce the potential for Pb emissions from MSW combustion. Specifically, under the proposed standards and guidelines, all MWC's would be prohibited from combusting lead-acid batteries weighing more than 5 kilograms (kg) (11 pounds (lb)) (i.e., automobile-type batteries). Lead-acid batteries would have been separated from MSW by onsite mechanical or manual separation, a community-based material separation (recycling) program, or a combination thereof prior to combustion of the MSW. Monthly records and annual reports of the weight of batteries separated from the MSW stream would have been required.

Many public comments were received on the 1989 proposed standards and guidelines; some supported the combustion prohibition, others did not. Some commenters cited studies indicating that lead-acid batteries contribute to over 50 percent of the Pb found in the MSW stream. Other commenters questioned whether lead-acid batteries are actually a major source of Pb in MWC emissions.

Several comments on the 1989 proposal indicated that it would be too difficult or too costly to separate lead-acid batteries from MSW, even though technologies were commercially available for identifying large Pb objects

in MSW. Other comments encouraged the use of deposit or mandatory take-back programs to encourage recycling and reduce the number of batteries being disposed of as MSW. Finally, several commenters felt that an absolute prohibition on combustion of batteries was unworkable and that 100-percent compliance would be impossible to achieve because neither deposit/take-back systems nor screening devices could ensure removal of all batteries from MSW. These commenters argued that requiring a "best effort" or "reasonable effort" to remove batteries was more reasonable and enforceable.

The final standards and guidelines promulgated on February 11, 1991 (subparts Ca and Ea) did not prohibit the combustion of lead-acid batteries. The EPA stated in the preamble to the 1991 standards and guidelines that although lead-acid batteries are a significant source of Pb in MSW, there are already regulatory mechanisms in place to discourage lead-acid battery combustion. In addition, the EPA stated that many commenters questioned whether it would be possible to achieve 100-percent compliance with a prohibition. For these reasons, the Agency did not believe that a prohibition was necessary, and one was not included in the standards and guidelines promulgated on February 11, 1991.

The decision by the EPA to delete the lead-acid battery combustion prohibition from the promulgated standards and guidelines was challenged in the U.S. Court of Appeals by the Natural Resources Defense Council (NRDC), the State of New York, and the State of Florida. The petitioners argued that if 100-percent compliance with the prohibition was not possible, then the EPA could have adopted a lesser restriction (such as a 99- or 95-percent ban) or could have required a best or reasonable effort to prevent battery combustion. The petitioners also argued that the mere existence of other regulations and programs to discourage lead-acid battery combustion and to promote recycling is not sufficient to explain why some type of combustion prohibition would not constitute the best demonstrated technology for reducing emissions if lead-acid battery combustion is a significant source of Pb emissions. The case was argued in court on February 6, 1992.

The U.S. Court of Appeals issued its decision on July 14, 1992. The Court remanded the issue of lead-acid vehicle battery combustion to the EPA and asked the EPA to explain its decision to remove the lead-acid battery combustion prohibition from the 1991