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Chairman Palmer, Ranking Member Tonko, and Members of the Subcommittee, thank you for the opportunity to speak today. My name is Aaron Goldberg. I am an environmental attorney with Beveridge & Diamond, and I have been working on hazardous waste issues under the Resource Conservation and Recovery Act since 1980. I'm here today, in my personal capacity, to highlight the need for legislation to promote recovery of critical minerals from the lithium-ion batteries used in consumer electronics, electric vehicles, and energy storage systems. The views I express today are my own.

To start, it's important to note that virtually all the relevant RCRA regulations were issued in the 1980s and 1990s, before lithium-ion batteries were widely used. The rules contain numerous provisions designed to promote recycling of *other* types of batteries, such as lead-acid and nickel-cadmium. However, the rules are essentially silent on lithium-ion batteries. As a result, they create obstacles that were never intended and that frustrate national goals.

The fundamental problem is that the RCRA rules generally brand used lithium-ion batteries and related materials as wastes, rather than the valuable resources they are. That, in turn, results in a cascade of other problems. I'll highlight three examples:

- First, the rules compel battery recyclers to store batteries off site prior to processing. That serves no environmental purpose. It merely adds costs, complicates logistics, and increases transport and handling risks.

- Second, the rules classify critical mineral-rich "black mass" from shredding lithium-ion batteries as solid waste, even though lower-value shredded circuit boards are generally deemed non-wastes. That makes domestic recovery harder and puts the U.S. at a disadvantage to countries like China, which generally views black mass as a valuable commodity.
- Third, the rules restrict land disposal of non-hazardous residues from recycling lithium-ion batteries, even though similar residues from recycling other batteries are not subject to the same type of restrictions. That imposes extra burdens without a corresponding environmental benefit.

EPA has announced its intent to revise some of the RCRA rules for lithium batteries, but the focus appears to be on more stringent standards to address fire risks, not any of the issues I've mentioned. Fire risks are real, but they are already addressed through fire codes, DOT transportation rules, and other targeted requirements. Moreover, EPA's authority to add new RCRA standards to address these risks is uncertain under the 1996 Rechargeable Battery Management Act. And even if EPA acts, a rulemaking would likely take years, and would have to be followed by state adoption that could take several more years and might never be complete.

For these reasons, congressional action is important. I appreciate the Subcommittee's work on the draft BRACE Act, and the bill is a useful start. But, it needs important revisions. First, it addresses only the rule that pushes recyclers to store batteries offsite, and it does so in a way that could paradoxically leave onsite storage less regulated than offsite storage. Second, it does not address other barriers I've discussed, including the regulation of black mass and non-hazardous recycling residues. Third, it would give EPA broad authority to issue new standards,

without requiring the Agency to account for existing safety requirements or national goals for recovery of critical minerals.

There are simple, commonsense solutions. For example, recyclers could be allowed to store batteries onsite as long as they comply with the same requirements they are currently subject to at their separate facilities. Black mass, like other partially reclaimed materials that are commodity-like, could be reclassified as non-waste. And, non-hazardous residues from recycling lithium-ion batteries, like those from other types of batteries, could be deemed sufficiently treated to allow land disposal.

I urge Congress to enact these and related changes nationwide to help support the domestic supply chain for critical minerals, while continuing to protect human health and the environment.

Thank you for considering my testimony. I'm happy to answer any questions.