

July 10, 1985

Ms. Nancy L. Suska
Bureau of Industrial Hygiene
Room S-219
Baltimore City Health Department
111 N. Calvert St.
Baltimore, Maryland 21202

Dear Ms. Suska:

This letter is in response to the questions You raised at the Washington Public Meeting held to discuss the RCRA Reauthorization Amendments. First, let me apologize for taking so long in getting back to you, as you know, we have been quite busy in preparing guidance and developing the regulations to implement the new requirements under the Hazardous and Solid Waste Amendments of 1984. I hope my delay has not created a problem for you. With regard to your specific questions, I will answer them in the same order as they are presented in your letter.

- 1) Regarding spent activated charcoal and the new definition of solid waste:
 - (a) How will generators of the charcoal be affected in so far as permitting and transportation requirements?

As we explain in the preamble to the January 4, 1985 recycle/reuse rules, the amended definition adopts the approach that for secondary materials being recycled, one must know both what the material is and how it is being recycled before determining whether or not it is a solid waste and **if** hazardous, a hazardous waste. Spent activated carbon would normally be considered a spent material; 1/ if it is sent for reclamation (the most common manner of recycling for this material), the spent activated carbon would be defined as a solid waste. See 50 FR 619, Table 1. If the spent activated carbon also is hazardous (i.e. exhibits a characteristic or contains a listed waste), this waste would be subject to regulation in the hands of the generator.

1/ A spent material is any material that has been used and as a result of contamination can no longer serve the Purpose for which it was produced without processing see 40 CFR 261.1 (c) (1).

Faxback 11089

Thus, if shipped off-site, the activated charcoal would have to be manifested; the generator would also have to comply with the appropriate storage requirements.^{2/}

- (b) Will facilities that regenerate the charcoal be subject to permit requirements under RCRA? What procedure should be followed?

If the spent activated carbon is defined as a solid and hazardous waste, the facility that regenerates the activated carbon would need to comply with 40 CFR 262.34 (if generator of the material regenerates the activated carbon and stores the material in a tank or container for less than 90 days) or 40 CFR Parts 264 and 265 and get a storage permit. The procedures to be followed in getting the storage permit are the same as those used by any treatment, storage, or disposal facility. Furthermore, if the regeneration unit meets the definition of an incinerator (as promulgated in the January 4, 1985 rules), the owner or operator would also have to permit this unit. If, however, the regeneration unit is not an incinerator, this unit is exempt from regulation.

- (2) Will closed municipal landfills suspected of containing hazardous wastes be subject to corrective action under RCRA and/or CERCLA?

Closed municipal landfills which are suspected of containing hazardous wastes would not be subject to the corrective action provisions under RCRA, unless, (1) the municipal landfill is part of a facility and another part of the facility requires a RCRA permit, or (2) the facility has interim status or was required to have interim status. On the other hand, the municipal landfill is still subject to the provisions of CERCLA.

- (3) Will drum recyclers of drums previously containing hazardous wastes either by caustic wash or incineration be subject to any new permitting requirements under RCRA?

^{2/} If the spent activated carbon is part of a pollution control system, this material would be defined as a sludge. (A sludge is any residue generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent; see 40 CFR 260.10.) Since only listed sludges or sludges which contain a listed waste are defined as solid waste when they are sent for reclamation, it is important that you determine in what manner the activated carbon is used. It should be noted, however, that this material is not likely to exhibit any of the characteristics of hazardous wastes.

Therefore, this material probably would only be hazardous if it contains a listed waste; in this case, the regulatory scheme would be the same whether the activated carbon is defined as a spent material or a sludge.

If the containers previously contained a hazardous waste (i.e., the containers are empty as defined in §261.7), the drum recyclers would not be subject to any regulation. If, however, the drums still contain hazardous wastes, the drum recyclers would, at a minimum, need to get a storage permit to store the non-empty containers before recycling, as explained in #1. In addition, if the method used by the owner or operator to recycle the drum is by incineration, the incineration unit would also need to be permitted.

Please feel free to give Matt Straus, of my staff, a call if you need any clarification or have any further questions, Mr. Straus can be reached at (202) 475-8551.

Sincerely yours,

John H. Skinner, Director
Office of Solid Waste