

9441.1986(06)

MERCURY, REFINING/REUSE OF SCRAP

JAN 21 1986

Mr. D. F. Goldsmith
D. F. Goldsmith Chemical
and Metal Corp.
909 Pitner Avenue
Evanston, Illinois 6020

Dear Mr. Goldsmith:

This letter is in response to your request of August 2, 1985, concerning the regulatory status of the scrap mercury that is refined at your facility in Chicago. First, I would like to apologize for taking so long in responding to your request; I hope this delay has not caused you any problems. With regard to your specific request, you indicate that scrap mercury, in the form of free-flowing mercury, is shipped to your facility in 76 pound flasks for refining. The scrap mercury purchased by your facility comes from a variety of sources, including the following: scrap dealers that accumulate small quantities of mercury; manufacturers or reclaimers of instruments and electric switches; private citizens who have accumulated mercury; and firms who dismantle chlor-alkali facilities. The mercury, as received, is at least 99 percent pure mercury; this material is distilled to instrument quality (over 99.99 percent pure mercury). Based on your reading of the January 4, 1985 recycle/reuse regulations, the scrap mercury that is refined at your facility is not a solid waste and, thus, would not be subject to the RCRA hazardous waste rules.

In general, I agree with you that the free-flowing mercury that is received and refined at your facility is not a solid waste (although I do not necessarily agree with all the arguments you present in your letter).^{1/} In particular, we have stated (which you note in your letter) that metals that are suitable for direct use, or that only have to be refined to be usable are products, not wastes. See 40 CFR 261.3(c)(2);

1/ It should be noted that this regulatory interpretation reflects the federal hazardous waste rules. The State of Illinois may take a different interpretation.

see also preamble discussion at 50 FR 634, January 4, 1985. Thus, the scrap mercury--that is the 99 percent free-flowing mercury--that you receive is not subject to any of the hazardous waste regulations (i.e., the material does not have to be manifested to your facility, you need not comply with the storage requirements, etc.).2/

Please feel free to give me a call if I can be of any further assistance; my telephone number is (202) 475-8551.

Sincerely yours,

Matthew A. Straus, Chief
Waste Identification Branch

2/ It should be noted that if you receive electrical switches, instruments, scrap batteries, or other forms of spent materials from which you recover/reclaim the mercury and these spent materials are hazardous (i.e., they exhibit one or more of the hazardous waste characteristics), these materials would be solid and hazardous wastes and would be regulated under 40 CFR 261.6(b) and (c).