

9441.1986(43)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAY 30 1986

Mr. Bruce J. Lawrence
President
Bethlehem Apparatus Company, Inc.
Hellertown, Pennsylvania 18055

Dear Mr. Lawrence:

This is in response to your February 26, 1986, letter in which you request confirmation that the mercury that is sent to your facility to be triple distilled is not a waste. 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 respect to your specific request, I agree with you that mercury (which is at least 99 percent pure) that is received and refined at your facility is not a solid waste.^{1/} In particular, we have stated 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); see also preamble discussion at 50 FR 634, January 4, 1985. Thus, the mercury--that is 99 percent free-flowing mercury--that you receive at your facility 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.)

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

Sincerely,

Matthew A. Straus
Chief
Waste identification

1/ It should be noted that this regulatory interpretation reflects the Federal hazardous waste rules. The state of Pennsylvania may take a different interpretation; you, therefore, need to contact the state for further information on the status of this material.

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