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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 18 1987

Mr. Dennis M. Burchett  
V.P. Regulatory Affairs  
Clean Crop  
419 18th Street  
P.O. Box 1286  
Greeley, Colorado 80632

Dear Mr. Burchett:

This is in response to your inquiry of April 21, 1987. From information in your letter and from your phone conversation of May 8, 1987 with Mike Petruska of my staff, we have concluded that your spent carbon contains the listed hazardous waste Phorate (P094). Therefore, the contaminated carbon is subject to the hazardous waste regulations. In particular, your company must comply with the hazardous waste generator requirements, including compliance with the manifest. See 40 CFR 261.6(b). In addition, the facility that regenerates the carbon must also comply with the appropriate hazardous waste rules. See 40 CFR 261.6(c)

The reasoning behind this determination is as follows:

The packaging of the finished Phorate product releases Phorate to the air. In effect, Phorate is being "discarded;"

EPA regulations at 40 CFR §261.33 identify certain commercial chemical products (among them Phorate) as hazardous waste when they are discarded;

EPA continues to regulate a listed waste even when it is contained in another material, i.e., in this case the spent carbon.

The first point above, concerning the Phorate being discarded, is critical to your situation. Even though you capture the Phorate released to the air in carbon scrubbers and send the spent carbon for regeneration, the Phorate contained in the carbon is not recovered but rather is destroyed during carbon regeneration. This leads us to conclude that you are discarding Phorate. You

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should note, however, that if you were reclaiming or reusing the Phorate, your regulatory situation would be different. In this case, the Phorate would not be solid waste, and so would not be hazardous waste. (See 40 CFR §261.2.)

If you have further questions in this area, contact Mike Petruska of my staff at (202) 382-4765.

Sincerely,

Original Document signed

Matthew A. Straus, Chief  
Waste Characterization Branch

cc: Regional Hazardous Waste Branch Chiefs (Regions I-X)