

9433.1990(03)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

JUN 14 1990

Dear Petitioner:

The purpose of this letter is to inform you that the Agency has finalized the Toxicity Characteristics (TC) Rule (published in the Federal Register on March 29, 1990, see 55 FR 11798). This rule replaces the Extraction procedure (EP) Toxicity test found in Appendix II to 40 CFR section 261.24 with the toxicity Characteristic Leaching Procedure (TCLP). The TCLP is a more sophisticated leaching procedure that predicts leaching and expands the Toxicity Characteristics to include organic hazardous constituents. The TCLP currently is used for other hazardous waste programs, and the procedure has also been described in Appendix I of 40 CFR part 268. The intent of this letter is to notify you that the TCLP will be required for all new testing used to support petitions submitted by hazardous waste facilities to exclude ("delist") a waste pursuant to 40 CFR 260.20 and 260.2.

We have chosen to adopt the TCLP as a requirement for delisting demonstrations in order to remain consistent with the leaching procedure used to define a characteristic waste. We believe this early notification to you of the changes will enable petitioners to prepare in advance and adjust any future sampling and testing plans accordingly. Petitioners who have recently received correspondence from the Agency should have already been informed of some of the information in this letter.

As noted in the preamble to the final TC Rule, we will soon publish a notice of our intent to require TCLP data for all delisting demonstrations. This forthcoming Federal Register notice will discuss in more detail the effects of these changes on required delisting petition information for both future and pending petitions. A copy of that notice will be sent to you upon its publication in the Federal Register. We are taking this opportunity, however, to briefly describe for you the key impacts of the change to the TCLP.

In order to minimize the impact of this change on the current schedules for individual delisting decision-making, we are establishing an effective date of December 31, 1990, beyond which we will no longer accept new petitions without TCLP data.

For petitions submitted prior to December 31, 1990, if we believe the EP and total constituent data submitted prior to the effective date are complete and are sufficient to support a delisting decision by the Agency, then we do not plan to require retesting using the TCLP. For example, if the EP leachate data for organic constituents are judged to be complete, we do not plan to require retesting. However, additional data (including TCLP data) may be requested at any time if we believe the information is needed to complete a petition or to address comments received on a proposed decision. In any case, all petitioners should plan to use the TCLP for any new sampling and analyses conducted for delisting petitions.

As part of all delisting demonstrations, we will require that the TCLP be used to predict the leaching potential of any inorganic and organic constituents (listed in Appendix VIII to 40 CFR Section 261). Therefore, the TCLP extracts should be analyzed for any inorganic or organic constituent that may be present in the waste. We will continue to also require analysis of total constituent concentrations of metals, cyanide, sulfide, and any organic constituents which may be present in your waste. Please note, if your petition is for a liquid waste (i.e., less than 0.5 percent solids), then the TCLP cannot be performed, and the TCLP requirements will not affect the delisting demonstration. Total constituent data will continue to be used to determine if a liquid waste should remain hazardous.

For wastes which have a total oil and grease content of more than one percent and/or which are difficult to filter using the TCLP apparatus (i.e., tars), we will require use of the Oily Waste Extraction Procedure (OWEP) (SW-846 Method 1330) in place of the TCLP to determine the leaching potential of inorganic constituents. The OWEP has been used in place of the EP in the past, and we plan to continue to require its use for oily wastes because the TCLP currently has no special provisions for oily wastes. We will evaluate the applicability of the TCLP for organics in problem matrices (such as oily wastes) on a case-by-case basis. For stabilized wastes, we will continue to require use of the Multiple Extraction Procedure (MEP) (SW-846 Method 1320) in addition to the TCLP for inorganic constituents.

-3-

Should you have any questions or require any additional information regarding this matter, please contact Linda Cessar of my staff at (202) 475-9828.

Sincerely,

Original Document signed

Devereaux Barnes, Acting Director
Permits and State Programs
Division