

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

November 9, 1990

Mr. George Bevington
Solid Waste Director
Fulton County Department of Solid Waste
P.O. Box 28
Johnstown, New York 12095

Dear Mr. Bevington:

This is in response to your letter dated October 5, 1990 wherein you ask two questions related to the Toxicity Characteristic (TC) final rule, which was published in the Federal Register on March 29, 1990.

Your first question relates to the temporary deferral of the applicability of the TC rule to petroleum-contaminated media and debris generated as part of a corrective action undertaken in accordance with 40 CFR Part 280 Subpart F (underground storage tank regulations). You are correct with respect to the deferral negating the need to determine if the petroleum-contaminated media and/or debris would be hazardous for the new TC constituents, specifically waste codes D018 through D043.

It is important to note that the deferral does not apply to the old EP constituents, waste codes D004 through D017, nor does it apply to the other three characteristics (ignitability-D001, corrosivity-D002, or reactivity-D003). Thus it is necessary for a generator to determine if their petroleum-contaminated media and/or debris would be hazardous for the D001 through D017 waste codes.

You indicate in your letter that your landfill has discontinued accepting UST petroleum-contaminated media and/or debris until you determine whether these wastes are subject to the Toxicity Characteristic Leaching Procedure (TCLP). There is no reason to run a TCLP to determine if these wastes are hazardous for the D018 through D043 waste codes (the new TC constituents), provided that they were generated as part of a UST corrective action. However, a generator must still determine if his/her wastes are hazardous for the D001 through D017 waste codes. Thus it may still be necessary to run a TCLP unless the generator can use his knowledge to determine his/her waste is not hazardous for the D004 through D017 waste codes.

With respect to the general issue of the regulatory status of petroleum-contaminated media (i.e., soil and ground water), I want to inform you that the State of New York has petitioned EPA to exempt all such media generated as part of a oil spill remediation covered under their state program from the TC. EPA is currently evaluating this petition and various options for responding to it. It might be

advisable to contact the State and make sure you are kept apprised of any action taken with respect to this petition.

Your second question relates to any plans on the part of EPA to delete the exclusion for certain chromium wastes. At this time, EPA has not made a decision whether to remove this exclusion and no schedule for completing this work has been developed. When, and if, the Agency decides to pursue this, notice will be given through the Federal Register.

I trust that these responses fully address your questions. If you have additional questions or require additional clarification, please feel free to call Steve Cochran at (202) 382-4769.

Sincerely yours,

Sylvia K. Lowrance
Director, Office of Solid Waste

FaxBack # 11569

Fulton County

October 5, 1990

Mr. Steve Cochran
Office of Solid Waste
United States Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Mr. Cochran:

The March 29, 1990, Federal Register promulgates rules and regulations concerning the replacement of the Extraction Procedure Leach Test with TCLP. I am writing you this letter since your name is provided in the Federal Register as a contact person for this revised rule.

I have two questions concerning the proposed rule:

1. **Page 11805** indicates that the Agency is deferring the applicability of TCLP to petroleum/contaminated media and debris at sites subject to the RCRA underground storage tank cleanup program.

As the responsible entity to operate a state-of-the-art landfill, my question is as follows: Does this deferral allow for the petroleum soil cleanup waste to be disposed of at the Fulton County Sanitary Landfill without the TCLP analysis?

Specifically, prior to September 25, 1990, several tons of non-hazardous contaminated soil were disposed of in the Fulton County Landfill, since the applicable New York State Department of Environmental Conservation haulers permits were issued. With the advent of TCLP, we have discontinued accepting contaminated soil until I receive notification that this type of waste is not subject to TCLP.

2. **Page 11812** (under the "Chromium" sub-section) states that the Agency is considering the deletion of the exclusion for specific chromium waste that contains virtually no hexavalent chromium. It further states that this change would affect certain waste from the leather tanning and finishing industry.

Since Fulton County is a center for leather tanning and finishing, I request further information concerning the Agency's proposed deletion of this chromium exclusion clause; i.e. when will the deletion occur?

I look forward to your prompt response to my questions. If possible, please send your comments to me, via facsimile, at the above FAX number.

Sincerely yours,

George Bevington
Solid Waste Director

FaxBack # 11569