

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

MAY 21 1991

Commanding Officer
Department of the Navy
Naval Weapons Support Center (PM-4)
Crane, Indiana 47522-5000

On December 11, 1990 and April 18, 1991 you sent a letters (#8026 - Ser 50222/U5224, - Ser PM4/U5471) to our office requesting that the Navy be exempted from the provisions of the Toxicity Characteristic Leaching Procedure (TCLP) when determining if munitions items (DOT Class C, Hazard Class 1.4), which are being processed through an incinerator for disposal, exhibit toxic characteristics. This letter responds to your specific concerns. I want to apologize for not responding sooner to your initial letter.

Under the existing regulations, persons who generate solid waste are not specifically required to test their waste to determine whether they exhibit the Toxicity Characteristic or any other characteristic. Instead, solid waste generators are required to make a determination as to whether or not their waste are hazardous (see 40 CFR 262.11). This determination may be made by either applying knowledge of the waste, the raw materials, and the processes used in its generation or by testing.

In your initial letter you stated that, "the TCLP requirement to reduce particle size for toxicity determination should not be applicable because of the inherently unsafe procedure of crushing, cutting or grinding of munitions items." The Agency recognizes that the particle size reduction requirement (step. 7.3 - TCLP) could create an inherently unsafe situation when testing these items. Therefore, we suggest that determinations for these items be made by using knowledge of the process or any other available data that characterizes the properties of the above prescribed waste (e.g., EP Toxicity results).

On January 11, 1991, our office called Mr. Keith Sims, and on January 14, 1991 we spoke with Mr. J. Lawson, both of your office, regarding the Navy's request for exemption from the TCLP. In our phone conversations, we explained that the TC rule does not require generators to test in order to make a hazardous waste determination, as described above. Based on their knowledge of the process, if they think that the above munitions items would fail the TCLP-extract analysis for lead or dinitrotoluene, then these wastes could be declared as hazardous, and no testing would be necessary. However, these wastes would have to be managed and disposed of according to Subtitle C requirements. Both Mr. Sims and Mr. Lawson acknowledged that they understood our explanation and requested that we send you the above clarification in writing.

Of course, State and local agencies may have additional regulations that differ. The appropriate EPA Regional office or State and local regulatory agencies should be contacted for additional assistance or clarification.

If you have further questions regarding the TC rule, please contact Daryl Moore at (202) 475-8551.

Sincerely yours,

Sylvia K. Lowrance, Director
Office of Solid Waste

cc: Mr. J. D. Lynch (PM-4)
Mr. G. S. Edwards (5022)