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IGNITABILITY OR CORROSIVITY TESTING-LIQUID AND AQUEOUS  
DEFINITION

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 16 1990

Mr. Robert D. Wyatt  
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One Market Plaza  
San Francisco, CA 94105

Dear Mr. Wyatt:

I am writing in response to your letter of January 6, 1990, concerning the uses of the terms "liquid" or "aqueous" in the RCRA characteristic tests for ignitability and corrosivity. This letter will describe the background on this issue as well as our current position.

As a preliminary matter, I want to clarify that EPA has not promulgated any rule establishing a mandatory test method for use in determining whether a waste is "liquid" or "aqueous" for the purpose of ignitability or corrosivity testing. The generator of the waste may use any method for which he can provide appropriate scientific or technical justification. The Agency has in the past provided guidance indicating that it is generally willing to accept test results from the use of Method 9095, the "paint filter" test. As explained in more detail below, however, the Agency is in the process of re-evaluating its general view of the suitability of Method 9095 for characteristic testing. Mr. Friedman's memorandum is one indication of this re-evaluation.

When the Agency promulgated a rule requiring the use of Method 9095 for completely different purposes in 1985, it believed the method could also be used as a fast, inexpensive, and reasonably accurate means of obtaining the liquid to be evaluated in the ignitability and corrosivity tests. It believed that material that passed through Method 9095's mesh filter would also be a liquid under more stringent tests such as step 2 of

Method 1310 (the "extraction procedure" test). Consequently, the preamble to the 1985 rule stated that Method 9095 "...may be used to obtain the liquid portion of the waste for subsequent evaluation under the ignitability or corrosivity tests." 50 FR 18370 (April 30, 1985).

Similarly, in 1986, the Agency published the proposed Third Edition of SW-846. This document, which is quoted in your letter, also endorsed the use of Method 9095 for determining the free liquid in the waste for purposes of the corrosivity test.

Subsequent experience with Method 9095 has raised concerns about its suitability for identifying liquids for characteristic testing. The Agency's concerns with Method 9095 are described in the discussion for the Toxicity Characteristics proposal of June 13, 1986 (51 FR 21681). In that notice, the Agency discussed problems with using the paint filter test for hazardous waste identification purposes. Especially serious was the fact that, in some cases, whether and how much liquid separated out of the waste depended on how the waste was poured into the filter. Under the 50 psi pressure the Agency selected as representative of a landfill environment and specified in the Toxicity Characteristic, liquid which would not pass through the paint filter might be released from a waste and cause environmental damage. We believe that landfill disposal represents reasonable worst-case mismanagement for both toxic and corrosive or ignitable wastes. Consequently, the concerns about the test's performance under landfill pressures are equally valid for these additional characteristics. Also, certain particulate materials are capable of passing through the paint filter, and using Method 9095 would lead to classification of these solids as liquids.

For these reasons, the Agency expects to announce in the final rule revising the Toxicity Characteristics that Method 9095 is not appropriate for determining whether a liquid is present or not for the purposes of toxicity testing. The same reasoning applies to the corrosivity characteristic, and we intend to provide appropriate guidance in the preamble accompanying the final rule adopting the changes in the proposed Third Edition of SW-846. We also intend to revise the recommendation in the text of SW-846 in our next update.

With respect to your quote from the 1980 background document where we indicated we did not believe we needed to regulate solid

materials, that discussion was intended to deal with materials which would "form an aqueous solution of high or low PH" (in other words dissolve) rather than materials which contained and could release liquids, which is the case here.

With respect to the issue of whether Mr. Friedman provided testimony in the Hassayampa litigation, the aforementioned memorandum was not addressed to any specific litigation. Rather, it was in response to continuing questions that his office has received on this matter and a desire on our part to reduce the confusion. The cited regulation (40 CFR 2.401 et seq.) therefore is not germane in this instance.

In conclusion, there is currently no specific test for liquids which the Agency mandates under regulation as part of the corrosivity characteristics test. Mr. Friedman's October 24, 1989, memorandum and this letter describe and explain our Office's current thinking on this issue, which we intended to include in future guidance and in the next update of the Third Edition of SW-846. We regret any confusion that may have arisen. If you have any questions on this issue, please contact Alec McBride on 202-382-4761.

Sincerely yours,

Original Document signed

Sylvia K. Lowrance  
Director  
Office of Solid Waste

cc: Christina Kaneen  
Alec McBride  
David Friedman