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

Ms. Vanessa Suarez
Email: vanejov@coqui.net

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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Dear Ms. Suarez:

Thank you for your Email of November 18, 1999, to Administrator Carol Browner of the U. S. Environmental Protection Agency (EPA). Your Email addressed the Agency's follow-up activities to the 1996 "Hazardous Waste Characteristics Scoping Study." Administrator Browner has asked me to reply to your letter, because the Scoping Study was done by my office, the Office of Solid Waste.

We released the Scoping Study in November of 1996. It was a broad and comprehensive review of the EPA hazardous characteristics regulatory program under the Resource Conservation and Recovery Act (RCRA). There are two ways that we identify waste as hazardous and bring it under RCRA regulatory control. One is determining whether wastes exhibit hazardous characteristics, and the other involves listing specific wastes that we identify as hazardous. The current hazardous characteristics regulations address the following properties of waste: ignitability, corrosivity, reactivity and toxicity. The Scoping Study reviewed the effectiveness of these regulations in identifying waste that warrants regulation. The Scoping Study also tried to identify whether other waste properties should also be used to classify waste as hazardous, or whether the current hazardous characteristics should be expanded in any way. The Agency also collected data on toxic chemical releases from landfills around the country to try to identify constituents warranting regulation.

The completed Scoping Study identified a number of potential gaps in the hazardous characteristics regulatory program. However, the Scoping Study was done as a broad review and was not done at a level of detail that allowed us to draw firm conclusions about the significance of the possible program gaps. In the attachment to this letter, I describe some of the most important areas that we identified as possible program gaps, and our efforts to evaluate them further and address them. Several of the projects will require substantial time and resources. Some projects even require the Agency to fund basic scientific research in order to fully understand the problem and come up with effective solutions. This means that they cannot all be done at once, and so we have set priorities for them. We discuss those priorities in the attachment.

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I hope this addresses your concerns regarding Agency efforts to more fully examine and address those possible gaps identified in the Scoping Study that represent real environmental problems. If you have further questions, please contact my office or Gregory Helms on my staff at 703-308-8845.

Sincerely,

Elizabeth A. Cotsworth, Director
Office of Solid Waste

Enclosure

"Scoping Study" Possible Gaps and EPA Efforts to Address Them

Possible Gap: Release of Waste Constituents to the Air

Air Characteristic Study: The Agency conducted a follow-on study to assess the risks of more than 100 potential waste constituents to the air, when managed in particular types of common waste management units. A draft report was released in May of 1998, and the final report in October 1999. The final report will be available on the EPA internet website soon.

Possible Gap: Inadequacies in TCLP Test

TCLP Review: The Agency is conducting a review of the TCLP waste leaching test and its use in implementing regulatory programs under RCRA. This was initiated in response to concerns identified in the Scoping Study regarding leaching of highly alkaline waste. The Agency has also continued to study oily waste leach testing, another area of possible concern identified in the Scoping Study. A public meeting was held in July 1999 on this topic. A report of the meeting results is available on the EPA internet website at: http://www.epa.gov/epaoswer/hazwaste/test/leaching.htm

Possible Gap: Update and Expand the Current Toxicity Characteristic Regulation

The Scoping Study also suggested that the toxicity characteristic (TC) regulation could be updated to: 1) incorporate updated toxicity data and drinking water regulations; 2) rely on improved groundwater fate and transport models; and 3) include more waste constituents that have the potential to be leached from waste and into groundwater.

The Agency has over the past several years been conducting ongoing updates of its current groundwater fate and transport model, the Composite Model with Transformation Products (CMTP); improvements to the Agency's model for identifying the likely metal species present in groundwater are also ongoing (to account for thermodynamics). Updating the groundwater modeling to reflect improvements could be considered as part of any TCLP test revisions for which we potentially conduct rulemaking in the future. Adding more chemical constituents to the TC regulated list would also require data indicating that candidate constituents both occur in waste and pose some risk to human health and the environment when present in waste.

Silver TC Review: While not a regulatory "gap", a study was done to address significant concern about the appropriate regulatory status of silver under RCRA. This was in response to concerns raised by the photo-processing industry that silver was over-regulated under RCRA, since the drinking water regulations that form the basis for many RCRA regulations deleted the regulation of silver in drinking water.

Ignitable/Corrosive/Reactive Characteristics Need to be Updated

In April of 1998 the Agency withdrew its flawed sulfide/cyanide reactivity test guidance. Work on replacement guidance has been initiated, but proceeding at a low level of activity due to competing priorities.

Ecological Risk is Not Directly Addressed by Current Regulations

The Agency is developing tools for evaluation of ecological risks from waste as a part of the HWIR rule development. No consideration of an ecological toxicity characteristic is possible until development of the tools for assessing risks caused by wastes to ecosystems is completed.