

9554.1990(06)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

JUN 25 1990

Lynn L. Bergeson
Weinberg, Bergeson and Neuman
1300 Eye Street, N.W.
Suite 600 East
Washington, D.C. 20005

Dear Ms. Bergeson:

Thank you for your letter of June 8, 1990 concerning the use of the Extraction Procedure (EP) leach test for determining compliance with the treatment standards for lead-bearing wastes beyond September 25, 1990, when the Toxicity Characteristic Leaching Procedure (TCLP) replaces the EP.

Your reading of the preamble discussion in the Third Third land disposal restrictions rule is correct; the Agency is allowing the continued use of the EP beyond September 25, 1990 for the limited purpose of determining compliance with the treatment standard for lead-bearing wastes. Land-bearing wastes that fail the TCLP, but pass the EP, will be deemed to meet the treatment standard for D008.

On the effective date of the Toxicity Characteristic rule, Federal regulations no longer allow the use of the EP to determine if your waste exhibits the toxicity characteristic. Please note, however, that if, as a matter of state law in a RCRA authorized state, the EP is required, that requirement is not superseded by the TC rule.

Please note that the second footnote on page 2 of your letter, which states that the TC effective date for small quantity generators is March 29, 1991, is incorrect. The TC effective date is September 25, 1990. There are two compliance dates: September 25, 1990 for large quantity generators (generators producing over 1000 kg/month of hazardous waste) and TSDFs, and March 29, 1991 for small quantity generators.

We will address the continued applicability of the EP in a future land disposal restrictions rulemaking on wastes that exhibit the new toxicity characteristic. We plan to propose this rule within a year, and will provide opportunity for comment.

If you have further questions on this matter, please contact Robert Burchard of my staff at 475-6775.

Sincerely,

Original Document signed

Sylvia K. Lowrance, Director
Office of Solid Waste