

Commissioner Bradley M. Campbell
New Jersey Department of Environmental Protection
401 East State Street
7th Floor, East Wing
Trenton, NJ 08625-0402

Dear Commissioner Campbell:

Thank you for your letter of July 5, 2002 regarding the Environmental Protection Agency's (EPA) hazardous waste regulatory program. Your letter expressed concern about the need to up-date the Toxicity Characteristic (TC) regulation, which was established in 1990 under the Resource Conservation and Recovery Act (RCRA).

EPA conducted a review of the hazardous characteristics regulatory program, including the TC regulation, in the 1996 Hazardous Waste Characteristics Scoping Study ("Scoping Study" EPA530-R-96-053). This study did not identify any hazards that clearly warrant regulatory changes.

The Scoping Study did identify a number of areas that deserve additional investigation, and the Agency has in the interim conducted follow-up studies in a number of topic areas. These include examining hazards due to waste constituent releases to the air; assessing the appropriateness of retaining silver in the TC regulation; considering possible updates to the ignitability, corrosivity, and reactivity characteristics and implementation guidance; and identification of possible supplements to the TCLP leach test for evaluating the groundwater leaching potential of non-hazardous wastes.

In conducting the Scoping Study, we also sought to identify information on environmental releases of chemicals from waste management units to supplement other information in assessing program adequacy. Fewer than one percent of operating non-hazardous waste management units (from the 12 states examined) experienced chemical releases that exceeded a state or federal regulatory or guidance value. New Jersey was not among the states for which we collected data.

'=

Your letter also noted recent letters sent to the Agency by Senators Jeffords and Boxer on this same topic. Copies of our replies to them are attached for your information.

Taking into consideration the Scoping Study and other recent studies, we believe that the TC regulation remains an effective and appropriate regulatory tool for defining hazardous waste. We have followed up on those topics our 1996 review indicated warrant additional study and we will continue such activities. We will also continue to examine and enhance the hazardous waste characteristics by developing implementation guidance when appropriate, and evaluating new data and information that could affect the waste definitions. However, we do not believe a broad, national revision of the program is warranted at this time. As you are aware, states may develop hazardous waste regulations that are more inclusive than the federal program, or which target waste management problems of particular concern to the state. I encourage you to exercise this authority to address waste management concerns that are specific to New Jersey.

Thank you for your interest in the RCRA hazardous waste program. Please contact my office if I can be of further assistance, or your staff may contact Gregory Helms, in the Office of Solid Waste, at 703-308-8845.

Sincerely,

Marianne Lamont Horinko
Assistant Administrator

Enclosures

RO 14613