



July 16, 1986

TO: Roy T. Gottesman

RE: Public Hearing - Toxicity Characteristics

EPA's July 14th hearing on its proposed rule to amend RCRA by expanding the toxicity characteristic (51 FR 21648-21693) drew several hundred attendees. The meeting was chaired by Alan Corson of the Characterization and Assessment Division. Other members of his staff responding to questions included Todd Kimmel, David Friedman, Ben Smith, and Riva Rubenstein. Additionally, Steve Hirsch of the EPA's Office of General Counsel participated.

A very brief summary of the comments made by those who had signed up to make presentations follows. It should be noted that every one of the speakers indicated their intention to submit more complete and detailed comments for the record.

1. David Case, Hazardous Waste Treatment Council

Case indicated general support for the health-based approach and the expansion of the listing. Case noted that his organization is supportive of the groundwater transport model with "some" caveats that he indicated would be expanded upon at length in their formal comments. For example, he noted that the management scenario grossly understates the industrial component of what goes into a municipal landfill; generators should be required to test with the TCLP on a specified basis.

2. Thomas Dufficy, National Association of Photographic Manufacturers

This Association represents companies that make both the equipment and the supplies (ex. Kodak, 3M, Agfa, DuPont). Their concern is obviously silver, as they are the largest industrial user. He noted that there are existing economic incentives for the recovery of photographic effluent. Of note, Dufficy indicated that under the Safe Drinking Water Act RMCL rulemaking that silver was not included.

3. Dr. Cecil Lue-Hing, Association of Metropolitan Sewage Agencies

The TCLP is under review by a 9-member Sludge Waste Management Task Force within the Association. He noted that the economic burden on municipalities could be severe, with no apparent corresponding benefits. He urged that EPA should allow time, if municipal sludge falls into the new list to bring treatment agencies into compliance.

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Further, he urged that TCLP should not apply to municipal sludge, but that municipal sludge should be regulated under the Clean Water Act. He was extremely critical of the validity of the worst case scenario, and advocated the need for a relative risk assessment study. Further, he suggested that the TCLP has not had the benefit of peer review for use in municipal sludge. He noted that it could take 4-6 months to acquire the necessary equipment. (EPA noted that they have been told that it would take about 2-3 weeks to get the equipment.)

4. Al Verstuyft, American Petroleum Institute (Analytical Chemist with Chevron)

Verstuyft was extremely critical of the Regulatory Impact Analysis in that it failed to identify the economic cost to industries. He noted that many substances (like benzene) are ubiquitous and the rule would impact many more businesses than the Agency believes. He further noted that the proposal does not address how to dispose of wastes that would be classified under the rule and the related costs. API has formally requested additional time to comment.

He commented at length on the groundwater transport model and its overprediction of constituents that reach the well. Also, he noted that the use of constant release/steady state conditions is unrealistic and that mischaracterization of wastes will result because biodegradation is not considered.

5. Richard Coleman, Chemetco

This company operates a copper smelter in Hartford, Illinois, and they recycle and smelt copper scrap. Of specific interest is that this company has submitted samples to three different laboratories and that they cannot reproduce results. He commented critically on the particle reduction and agitation components of the TCLP.

6. Dr. Paul Cammer, Halogenated Solvents Industry Alliance

Gave very brief comments, which are to be expanded upon for the record. He strongly objected to the EPA classifications and noted that the Environmental Committee of the Science Advisory Board had advocated for some time that risk assessments on promoters be done.

7. Steve Robuck, Alcoa

He was critical of a number of items including the zero headspace (little data that it will be any better than existing equipment); use of closed containers (no good for materials that have gases emanating); filter sizes in the EP and TCLP (different sizes, and therefore different results); lack of structural integrity procedure. He further advocated the development of alternative analytical methods.

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8. Thomas Hemminger, Utility Solid Waste Activity Group (USWAG)

This is an informal consortium, representing about 85% of all electric generating capacity. Hemminger is with Commonwealth Edison. In addition to comments to be submitted, he expressed great concern about the municipal landfill mismanagement scenario, and urged that utility wastes should be examined in the context of how they actually are disposed, with the leaching test used tailored to reality. The group supports the use of 100X the drinking water standard, until MINTAK model results are complete. He urged that the Agency contain in the rule, a method of updating models with a 3-year sunset provision.

9. Larry Penberthy of Penberthy Electromelt

This company makes electrically heated glass furnaces. He brought with him a number of glass samples resulting from its process. He believes that it is inappropriate to require pulverization and agitation as it will give incorrect information.

10. Trevor Bridle, Environment Canada (Research Lab)

Environment Canada believes that you cannot use the TCLP to define a hazardous waste, and that tests should be used that produce waste specific data, and that also consider parameters like disposal site conditions. He noted that he is encouraged by the mathematical model.

11. Larry Frantz, Burmah Technical Services (Commercial Lab)

He noted that he does not believe that the practical application of the TCLP may be as easy as it seems. He was particularly concerned about the zero headspace extraction, and the filtration requirements. He indicated that they have been told that there is a 3-6 month equipment availability factor, which will lead to increased turnaround time, with samples affected by this lag time. He believes that the cost will be 2-3 times greater, perhaps even 5 times greater if looking for the 38 organics.

12. George Vanderbuilt, Chemical Waste Management

He briefly noted that the organization supports the development of criteria, but is very concerned about the use of the TCLP. He believes that EPA has grossly underestimated the costs and overestimated the benefits.

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Timing of the Final Rule: Corson noted that the Agency intends to publish a final rule next spring, with a June 1987 date to be the most likely. When he was asked if there would be a phase-in time for the implementation of the regulations, Corson indicated that generally speaking EPA rules are effective within 6 months of promulgation, and that HSWA rules are effective immediately upon promulgation. EPA staff indicated that they did not know which would apply. From the comments, it would seem that if the rules were effective upon promulgation, that industry could face having to make significant financial expenditures over a very short time to meet compliance.

EPA staff repeatedly stressed that RCRA regulations generally consider only health-based impact and do not consider the cost/benefit consideration. Nevertheless, staff indicated that they were interested in receiving any comments and data along the cost/benefit lines. However, it is my impression that this data would have little impact upon the thinking of this division of EPA.

TCLP Reports: The July 9, 1986 Federal Register Notice (51FR 24856-7) announcing the availability of several reports that support the TCLP and the analytical methods to be used was disseminated at the meeting. Corson noted that although the comment deadline in the Federal Register Notice is stated as August 8, 1986, that the Agency will accept comments through August 12, 1986. As noted in this Register Notice, and as reiterated by Corson, the multi-laboratory evaluation is still underway. (Corson noted that it is 1/2 complete, or 1/2 incomplete!)

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