

August 15, 1986

VISTA

Peter de la Cruz
Keller and Heckman
1150 17th Street, NW
Suite 1000
Washington, DC 20036

AUG 18 1986

SUBJECT: TCLP COMMENT

Dear Peter:

I've identified another TCLP issue deserving a comment. The land disposal ban section of HSWA appears to say that six months after TCLP goes final that waste exceeding the threshold levels are banned from land disposal unless EPA takes action to prevent the ban (see HSWA Section 3004(g)(4)). Since most surface impoundments leak at least a little and most wastewater will fail TCLP, wastewater treatment in surface impoundments will be banned six months after TCLP promulgation.

We need to comment such that EPA recognizes this as a regulatory impact. Secondly, maybe EPA is willing to interpret the words "... within six months after the date of such identification or listing..." not to apply for characteristic wastes. In that case, TCLP wastes would not be candidates for land disposal until 66 months after HSWA enactment. Unfortunately, I think the word "identification" means "characteristic" and that this option has a low probability of success with EPA.

Do you have any ideas on this one?

Sincerely,



Joseph C. Ledvina
Director, Environmental Activities

ajo/4

cc Meredith Scheck

SPI- 12426

August 14, 1986

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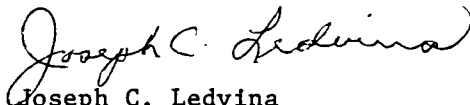
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Keller and Heckman
1150-17th Street, N.W.
Washington, DC 20036

SUBJECT: DRAFT COMMENTS ON TCLP AND SURFACE IMPOUNDMENTS

Dear Peter:

Attached are proposed comments on the impact of TCLP on wastewater impoundments.

Sincerely,



Joseph C. Ledvina
Director, Environmental Activities

ajo/4

Attachment

✓ cc Meredith Scheck - VI

SPI- 12427

DRAFT COMMENTS ON TCLP IMPACT ON SURFACE IMPOUNDMENTS

EPA has not adequately considered the regulatory impact of the TCLP on surface impoundments, especially wastewater treatment impoundments. No wastewater in the PVC/VCM industry contains less than the TCLP threshold of 0.050 mg/l vinyl chloride. As a result, every wastewater or stormwater impoundment in the industry will become subject to Subtitle C. The scenario is similar for refineries, and facilities producing organic chemicals, pesticides, and pharmaceuticals that use or produce compounds on the TCLP list.

The regulatory impact of TCLP on surface impoundments is not addressed in the preamble. EPA must estimate the number of impoundments affected by this rule and the cost of retrofit. At a cost of \$1.0MM per impoundment (which we believe to be low), U.S. industry could spend billions of dollars cleaning out and retrofitting or replacing impoundments that have a miniscule impact on the environment.

As EPA is aware, 40 CFR 261.4(a)(2) exempts wastewater discharges subject to Section 402 of the Clean Water Act, the so-called NPDES exemption. This exemption will allow discharges of wastewater exceeding the TCLP to enter the environment. Although we have no precise numbers on volume, this likely amounts to billions of gallons a day. Much of this volume is discharged into waters used for drinking.

Ironically, the proposed TCLP will require facilities with surface impoundments to expend huge resources eliminating leaks yet, the volume of water entering the environment from leaking surface

impoundments is orders of magnitude less than from surface discharges. There is no logic to this. EPA must provide language that exempts surface impoundments from Subtitle C in all but worst case situations. The Vinyl Institute has three suggestions on how this could be accomplished.

First, since groundwater contamination from surface impoundments is a long-term phenomena, allow the regulated community to use an annual average to determine if a wastewater exceeds a TCLP threshold. This will also mitigate the wide analytical variability in TCLP results observed by EPA.

Second, revise the regulation such that the contents of a surface impoundment is what determines whether Subtitle C applies rather than what is entering the impoundment. This is logical since any leakage from the impoundment will be essentially the same as the average concentration in the impoundment. Unless this is allowed, EPA will be faced with the embarrassing situation of requiring expensive leak prevention measures to control a few gallons per day of leakage while allowing what doesn't leak to be discharged to the environment under the NPDES exemption.

Third, revise the regulations so that the "aggressive biological treatment facility" retrofit exemption (HSWA, Section 3005(j)(3)) can be used for surface impoundments. HSWA currently requires that owners of surface impoundment wanting to apply for the exemption must apply to the administrator by November 8, 1986. The TCLP regulations affecting surface impoundments will not be promulgated by that date. Section 3005(j)6A allows facilities time to upgrade their surface impoundments but does not provide for the

"aggressive biological treatment facility" exemption. Certainly this was an oversight by Congress and a review of the legislative record would make it clear that biological systems becoming subject to Subtitle C after November 8, 1986 should be allowed to use this exemption. We suggest the affected industry be allowed a year after promulgation of a new regulation to notify the Administrator of its intent to use the "aggressive biological treatment facility" exemption.

We also believe it was Congress' intent that facilities which qualify for the "aggressive biological treatment facility" exemption to be exempt from all of Subtitle C including permitting requirements. EPA should make that intent explicit in its regulatory revisions.

Copies to VI Health Safety + Environment Committee Members

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VI HSE Comm

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March 18, 1988

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Mr. Roy T. Gottesman
Executive Director
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RECEIVED
MAR 23 1988
DR. R. T. GOTTESMAN

RE: New York's Proposed Drinking Water
Standard for Vinyl Chloride

Dear Roy:

On February 16th, the New York Department of Health proposed new drinking water standards for maximum contaminant levels (MCLs) for organic chemicals including vinyl chloride. Under the proposed standard, the current maximum New York State limit of 5 micrograms of vinyl chloride per liter will be changed to a maximum of 2 micrograms per liter. This contrasts with the 1 microgram proposed by the Environmental Protection Agency (EPA) in 1985 under the Safe Drinking Water Act. 50 Fed. Reg. 46902, 46930 (1985).

I don't know whether this will present a problem to any of the Vinyl Institute members and thought it best to bring it to your attention.

Cordially,

Peter

Peter L. de la Cruz

cc: Robert D. Luss, Esq.
W.C. Holbrook
Charles E. O'Connell
Lewis R. Freeman, Jr.
Robert W. Sherman
Margaret Rogers
Roger Bernstein

SPI- 12431