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VI/SPI

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VI

October 5, 1987

VISTA

Meredith Scheck
The Vinyl Institute
Wayne Interchange
Plaza II
155 Route 46 West
Wayne, NJ 07470

Dear Meredith:

During the recent VI Health, Safety, and Environment Committee meeting there was a discussion on the effective date of the Organic Toxicity Characteristic (OTC). We have commonly referred to this rulemaking as "the TCLP rule".

I said that the rule will become effective six months after it is promulgated. Promulgation is currently projected for March, 1988. The basis for the six months lies in Section 3010(b) of RCRA. That language says:

"(b) Effective Date of Regulation. - The regulations under this subtitle respecting requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste (including requirements respecting permits for such treatment, storage, or disposal) shall take effect on the date six months after the date of promulgation thereof (or six months after the date of revision in the case of any regulation which is revised after the date required for promulgation thereof). At the time a regulation is promulgated, the Administrator may provide for a shorter period prior to the effective date, or an immediate effective date for:

"(1) a regulation with which the Administrator finds the regulated community does not need six months to come into compliance;

"(2) a regulation which responds to an emergency situation;
or

"(3) other good cause found and published with the regulation.

[3010(b) amended by PL 98-616]

I interpret this to mean that companies having treatment, storage, or disposal facilities which become subject to the hazardous waste provisions of RCRA because of a new characteristic (like OTC) have six months to submit a Part A. Section 3010(b) also provides for a six month implementation delay for generators of waste that become

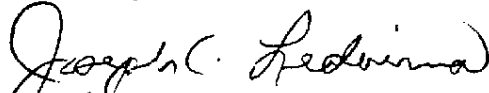
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hazardous because of OTC. Thus, it is possible that wastes which fail the TCLP and become OTC-hazardous would not need to be treated as hazardous until six months after promulgation of the TCLP. On the other hand, paragraph (1) of Section 3010(b) allows the administrator to provide a shorter period of time where the regulated community does not need time to comply. Locations which only generate OTC-hazardous waste may have less than six months to comply. EPA will specify effective date upon promulgation.

Please send this to members of the VI Health, Safety, and Environment Committee to assure there is no misunderstanding.

Sincerely,



Joseph C. Ledvina
Director, Environmental Activities

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