

The Honorable Charlie Norwood  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Norwood:

Thank you for your letter of March 14, 2000, regarding the meeting on March 6, 2000, between your staff, several of your constituents, and representatives of the U.S. Environmental Protection Agency (EPA), including myself. The meeting concerned the placement of sewage sludge from Augusta, Georgia=s wastewater treatment plant on farms in your district. In this meeting, your staff and constituents raised a number of issues concerning the application of the Resource Conservation and Recovery Act (RCRA) regulations to this situation.

We appreciate your constituents= concerns and are happy to assist in clarifying the RCRA regulations. This letter responds to the requests in your March 14 letter, and addresses two of the questions raised at the March 6 meeting regarding the domestic sewage exclusion. We are in the process of preparing responses to your remaining questions and will provide these to you shortly.

In your March 14 letter, you requested that EPA clarify the status of the March 6 briefing document used in our recent meeting with your staff and constituents. The March 6 document was a briefing fact sheet prepared for the March 6 meeting for discussion purposes only. We did not intend this document to be a statement of new EPA policy regarding the characterization of hazardous waste, but rather a summary of existing policy. As I mentioned above, EPA is currently preparing a letter that we will provide to you in the near future clarifying EPA=s regulations and policy concerning hazardous waste determinations. If you have further questions regarding the March 6 document, I am the appropriate official to address those questions, as the document was prepared by my staff.

You also requested that the Agency provide you an available date to meet with Ms. Gail Hansen and Mr. Jim Thompson to discuss the issues addressed in your March 14 letter. We are happy to honor your request, and we will include Ms. Hansen and Mr. Thompson in the follow-up meeting with your staff and constituents that is now being scheduled. You also requested information pertaining to an EPA inspection of the Augusta Wastewater Treatment Plant in

RO 14430

December 1998. Per discussion with your staff, we are checking on whether there is additional information related to this inspection.

At the March 6 meeting, your staff and constituents had several questions. We answer two of the questions regarding the domestic sewage exclusion below.

1. Does the domestic sewage exclusion from the definition of solid waste found in the regulations repeat verbatim the statutory language, or does it elaborate on the statutory language?

The regulatory language elaborates on the statutory language by adding to the exclusion mixtures of domestic sewage and other wastes. These mixtures must pass through a sewer system to a publicly-owned treatment works (POTW) for treatment for the exclusion to apply.

The term Solid waste is defined for RCRA purposes in Section 1004(27) of the Act. Solid waste as defined A...does not include solid or dissolved material in domestic sewage ...

The regulatory language that codifies the domestic sewage exclusion is found at 40 CFR 261.4(a)(1). This exclusion states that the following materials are not solid wastes: (i) domestic sewage; and (ii) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment.

The *Federal Register (FR)* discussion of the domestic sewage exclusion at 45 FR 33097 (May 19, 1980) notes that the exclusion carries over from the 1965 Solid Waste Disposal Act, and cites the legislative history of that act to explain the Congressional intent behind establishing this exclusion. The Agency used this legislative history as a guide when developing the regulatory language for the domestic sewage exclusion.

2. If waste is transported from off-site to a POTW, how does the domestic sewage exclusion apply?

If the waste is transported to the POTW by way of truck, rail, or dedicated pipe, the domestic sewage exclusion does not apply to the waste, regardless of whether or not the waste mixes with domestic sewage at the POTW. EPA has interpreted the domestic sewage exclusion to extend only to wastes which actually mix with sanitary wastes in a *sewer system leading to a POTW*.

If the waste delivered to the POTW by truck, rail, or dedicated pipe, is a hazardous waste, then the POTW must comply with the RCRA permit-by-rule requirements found at 40 CFR 270.60(c) and other applicable requirements. There also may be requirements that apply to the sludge generated as a result of the POTW's sewage treatment process.

If the waste that is delivered to the POTW by a truck, rail, or dedicated pipe is a RCRA *characteristic* hazardous waste, the resultant treatment sludge would not be a hazardous waste

unless the sludge itself exhibits a hazardous waste characteristic. Under RCRA, the mixture and derived-from rules do not automatically apply to these wastes and thus characteristic hazardous waste codes would not carry over to the sludge. Rather, the sludge must be newly evaluated and its waste status determined by the generator (in this case, the POTW). If the sludge is determined to be a characteristic hazardous waste, it would be subject to applicable RCRA hazardous waste requirements, including the land disposal restriction requirements.

If the waste that is delivered to a POTW by a truck, rail, or dedicated pipe is a RCRA *listed* hazardous waste, the resultant treatment sludge would carry the waste code of the listed waste and would be a RCRA hazardous waste subject to the RCRA requirements. The land disposal restrictions for listed hazardous wastes at 40 CFR 268.40 would also apply in this situation.

We hope this answers your questions regarding these issues. As I mentioned above, we are in the process of preparing responses to your remaining questions and will provide these to you shortly. If you have any questions about this letter, please have your staff contact Mike Flynn at (703) 308-8894.

Sincerely Yours,

Michael Shapiro  
Principal Deputy Assistant Administrator