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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 12 1988

Thomas A. Corbett
Environmental Chemist I
New York State DEC
600 Delaware Avenue
Buffalo, New York
14202

Dear Mr. Corbett:

This letter is in response to your letter of October 31, 1989, in which you requested clarification of the domestic sewage exclusion of 40 CFR 261.4 (a)(1)(i) and (ii) as it may relate to excavated sludge from a sewer line. We understand that you have spoken with Region II personnel who referred you to the Office of Solid Waste (OSW). We have enclosed a copy of the memorandum you mentioned in your letter from Marcia Williams to David Stringham dated December 12, 1986. You have related to Emily Roth of OSW your request for a written response from EPA on this issue.

The situation as described in your letter involves waste removed from the low points of storm sewer lines by excavation. Apparently, the sewer occasionally becomes blocked as a result of the settling of solids from the sewage. The plan is to place the waste material in waste hauling vehicles and transport it to the publicly-owned treatment works (POTW), where it will be discharged into the system for processing. The waste is EP toxic for lead. Your letter asks if the waste: (1) retains its non-hazardous status under the domestic sewage exclusion after excavation from the sewer line or (2) is subject to regulation as a hazardous waste.

The domestic sewage exclusion of Section 261.4(a)(1)(i) states that neither domestic sewage nor any mixture of domestic sewage and other wastes that "passes through a sewer system to a publicly-owned treatment works for "treatment" are solid waste. In the situation you describe, the sludge is removed from the sewer line and, therefore, does not pass through the sewer system to the POTW.

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The waste, upon removal, loses its "excluded" status under the domestic sewage exclusion and becomes subject to regulation as a solid waste. If the waste exhibits any of the characteristics of hazardous waste as described in 40 CFR Part 261, Subpart C, it must be regulated as a hazardous waste. In order for a POTW to receive hazardous waste, the POTW must be in compliance with the requirements of 40 CFR Section 270.60(c).

If you have any questions or comments regarding this letter, you may contact Emily Roth of my staff at (202) 382-4777.

Sincerely,

Original Document signed

Sylvia K. Lowrance
Director
Office of Solid Waste