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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JULY 87

### 2. Domestic Sewage Exclusion

A RCRA hazardous waste is transported by truck accompanied by Uniform Hazardous Waste Manifest to a publicly-owned treatment works (POTW). Does the domestic sewage exclusion apply to this hazardous waste if it mixes with domestic sewage prior to treatment? Is the sludge generated from treating the RCRA hazardous waste and the domestic sewage a hazardous waste due to the "Derived-From Rule" (40 CFR 261.31(c) and (d))?

The Domestic Exclusion ("the exclusion" or "the exemption") found in RCRA Section 1004(27) and codified at 40 CFR 261.4(a)(1)(ii) applies to "domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to publicly-owned treatment works for treatment. 'Domestic sewage' means untreated sanitary wastes that pass through a sewer system" (emphasis added). These wastes are not considered to be solid wastes and therefore cannot be classified as a RCRA hazardous waste. The exemption does not extend to wastes which are transported to the POTW by way of truck, rail, or dedicated pipe and which do not mix with domestic sewage. The POTW would be operating under a NPDES permit and is subject to regulations under the RCRA permit-by-rule provisions (see 40 CFR 270.60(c)).

Even if the hazardous wastes which were transported from off-site were mixed with the influent domestic sewage before any treatment occurred, the exclusion would not apply. As discussed in the May 19, 1980 Federal Register (45 FR 33097), EPA has interpreted that the intent of Congress was that the exemption extend only to wastes which enter the system at or near the point of generation and actually "mix with sanitary wastes in a sewer system leading to a POTW" (emphasis added).

As discussed in the June 22, 1987 Federal Register (52 FR 23478), if any listed RCRA hazardous wastes denoted in 40 CFR 261 Subpart D are manifested to a POTW, the resultant treatment sludge would retain the listing per the "Derived-From Rule" (see 40 CFR 261.3(c)(2)(i)). If the waste is characteristically hazardous under 40 CFR 261 Subpart C, the sludge would be considered a hazardous waste only if the sludge exhibited any one of the characteristics of hazardous waste.

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