

August 3, 2010

Proposed Rulemaking – Identification of Non-Hazardous  
Secondary Materials That Are Solid Waste  
Docket ID No. EPA-HQ-RCRA-2008-0329  
U.S. Environmental Protection Agency  
Mailcode: 28221T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Re: Comments of the California Wastewater Climate Change Group on the Proposed Rule on Identification of Non-Hazardous Secondary Materials That Are Solid Wastes, Docket ID No. EPA-HQ-RCRA-2008-0329**

To Whom it May Concern:

The California Wastewater Climate Change Group (CWCCG) is pleased to submit the following comments on the United States Environmental Protection Agency's ("EPA" or "Agency") proposed rule titled "Identification of Non-Hazardous Secondary Materials That Are Solid Waste (40 CFR Part 241)" that was published in the Federal Register on June 4, 2010 (Proposed Rule). CWCCG's mission is to address climate change policies, initiatives, and challenges through a unified voice advocating for California wastewater community perspectives. Together, CWCCG treats over 90% of the municipal wastewater in California, and we see the wastewater sector as a significant contributor to climate change and renewable energy solutions. California is implementing the most comprehensive climate change mitigation legislation in the nation while simultaneously leading the effort to develop alternative sources of renewable energy. Wastewater treatment, sludge treatment, and biosolids management are integral components to this effort.

CWCCG is extremely troubled by the agency's rejection of biosolids as a renewable energy source and terming all such efforts to be "sham recycling". Many wastewater plants across the state are processing fats, oils, and grease (FOG) and other organic wastes in their anaerobic digesters to increase production of renewable methane fuel. Likewise, plants are moving toward increased utilization of biosolids as a renewable fuel, through sewage sludge incinerator (SSI) energy recovery, combustion of digester gas, and other technologies.

The preamble in Section V.A., states that "Within the context of RCRA, this proposal aims to facilitate materials management to the extent allowed by the statute, through the establishment of a regulatory framework that guides the beneficial use of various secondary materials, ..." However, this proposal retards rather than promotes the beneficial use of sewage sludge and biosolids for energy recovery and production.

We disagree with the conclusions reached on sewage sludge for each of the three Legitimacy Criteria proposed by the Agency in Section 241.3(d)(1). For example:

- *Manage as a Valuable Commodity:* We believe sewage sludge meets this criteria by virtue of the requirements outlined in Section 241.3(d)(1)(i). Specifically sewage sludge is not

stored for unreasonable times, and it is at all times adequately contained so as to prevent releases to the environment. Moreover sewage sludge is never discarded prior to combustion in an SSI or other energy producing unit.

- *Must have meaningful heating value and be used as a fuel in a combustion unit that recovers energy:* All sewage sludge and biosolids have meaningful heating value. Dried pellets as referenced in Section VII.D.4.c. have energy value in excess of 5,000 btu/lb. Likewise, sewage sludge and biosolids combusted either in an SSI, as an alternative fuel in a cement kiln, or other unit allows energy recovery. Specifically sewage sludge combusted in a SSI can utilize off-gas to generate steam, power boilers, or generate heat. We do not agree that energy recovery is sham recycling if the energy is transferred through a duct or other means of conveyance. As we are attempting to generate and utilize as much renewable energy as possible, there appears no plausible justification to discount this valid source of energy.
- *Must contain contaminants at levels comparable or lower to those in traditional fuels which the combustion unit is designed to burn:* The comparison table provided in the preamble compares biosolids concentrations from 1982 and 1988 to an undisclosed source for coal. First, the Agency has much more recent data that should be used to form the basis of comparison for biosolids. Specifically the Targeted National Sewage Sludge Survey (2009) provides analytical data for a suite of constituents based on sampling events in 2006-2007. Concentration values are much lower today than they were in the 1980's since the implementation of the Pretreatment program under the Clean Water Act. The constituents compared with coal are those regulated for the land application of biosolids. It is unclear why this list would be the basis for comparison. More appropriately, the constituents regulated for SSIs under the risk based part 503 rule including Beryllium, Mercury, Arsenic, Cadmium, Nickel, and Chromium could be used. However, it also would seem reasonable to look at emissions rather than feed concentrations since pollution control technology on SSIs is extensive and effective. The source of the contaminant level in coal should be disclosed and an explanation provided as to why so few constituents were used for comparison. The whole argument in the preamble as to sewage sludge being more contaminated than coal, used tires, on and off spec used oil does not seem intuitively correct. It would seem that PAHs, VOCs, semi-volatile organics and organics should be evaluated.

CWCCG urges reconsideration by the Agency not to define sewage sludge as a non-hazardous secondary material that is a solid waste. As the nation and California are striving to produce as much renewable energy as possible, all such avenues should be encouraged and facilitated. Sewage sludge and biosolids that are incinerated, used as biogenic alternative fuels, or otherwise produce energy should be recognized as valuable sources for renewable energy and not have regulatory roadblocks constructed to impede such uses.

We also support the detailed comments on the Proposed Rule as submitted by the National Association of Clean Water Agencies (NACWA) and the California Association of Sanitation Agencies (CASA). CWCCG joins NACWA and CASA in urging EPA to adhere to the Agency's Part 503 program that recognizes Congress' intent to provide for the safe use and disposal of sewage sludge, to preserve local control over these management choices, to promote the

beneficial use of sewage sludge (including energy recovery and energy production), and to preserve incineration as a safe, viable, and cost-effective management practice for sewage sludge.

Thank you again for the opportunity to provide written comments on the Proposed Rule. Please feel free to contact me if you have any questions at (510) 206-3820 or [jkepke@ch2m.com](mailto:jkepke@ch2m.com).

Sincerely,

A handwritten signature in blue ink that reads "Jacqueline Kepke". The signature is written in a cursive, flowing style.

Jackie Kepke, P.E.  
Program Manager  
California Wastewater Climate Change Group