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# Standards for the Use or Disposal of Sewage Sludge/Regulatory Status of Recovered Materials: January 12th Letter from the U.S. Environmental Protection Agency to the National Association of Clean Water Agencies

## Arkansas Environmental, Energy, and Water Law Blog

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The National Association of Clean Water Agencies (“NACWA”) noted the receipt of a January 12th letter from the United States Environmental Protection Agency (“EPA”) addressing questions that had been presented to the agency regarding:

. . .the applicability of the 40 C.F.R. 503 Standards for the Use or Disposal of Sewage Sludge to various scenarios involving the recovery of useful resources from wastewater.

In referencing the January 12th letter, NACWA states in part:

. . .the letter outlines a process for the clean water community to seek an EPA determination, on a case-by-case basis, that resources recovered from the treatment process, which will be land-applied such as struvite used in fertilizer, can pass out of regulation under the Clean Water Act.

The organization further states that the letter:

. . .is not the clear determination that NACWA had urged the Agency to make – that such materials in all cases should be handled as products, not regulated wastes – but it is an important step in the right direction to preserve the practice of struvite recovery and open the door to broader resource recovery opportunities.

EPA’s January 12th letter notes that the agency considers products extracted from sewage sludge that are not land applied, land disposed, or incinerated, but instead sold into a commodity market, outside the scope of the Part 503 regulations. A company extracting precious metals or rare earth elements from wastewater is cited as an example. It concludes that such products would not be subject to Part 503 if they were resold as commodities instead of “applied to the land, placed in a surface disposal site, or fired in a sewage sludge incinerator” (citing EPA Guidance on Part 503).

EPA further addresses a scenario in which the product is intended to be land applied, surface disposed, or incinerated (as contemplated by Part 503). Part 503’s regulation of “sewage sludge” is referenced as including the terms definition of “material derived from sewage sludge.” The agency states:

. . .but EPA recognizes that some products originated from sewage sludge could conceivably be so heavily refined or processed that a significant transformation or change in quality has occurred to the extent that it would be unreasonable to describe those products as “materials derived from sewage sludge.” Because such products would not meet the definition of “sewage sludge,” they would be outside the scope of Part 503. EPA cannot, at this time, offer any general statements about what types of products may not be “derived from sewage sludge.”

Nevertheless, EPA states that it is “willing to consider on an individual case-by-case basis whether a particular product recovered from sewage sludge is beyond the scope of Part 503.”

EPA then identifies information that it would need to obtain from NACWA or its member facilities if they seek the agency’s views about whether a particular product is derived from sewage sludge.

A link to the NACWA announcement to which a copy of the January 12th letter is attached can be found [here](#).

<https://www.nacwa.org/news-publications/clean-water-current-archives/clean-water-current/2017/01/24/nacwa-scores-win-for-utility-of-the-future-on-resource-recovery>