

# Air & Waste



# Management Association

*News for people with environmental vision*

The Georgia Chapter

First Quarter/2000

## EPA Response to Hurricane Floyd

*Mike Morgan*

*Tetra Tech EM, Inc.*

In mid-September, 1999, Hurricane Floyd devastated the eastern half of North Carolina with heavy rains and flooding. Much of the area, as well as parts of South Carolina, received significant damage from the floodwaters. The storm and its resulting floods created a number of environmental challenges for the U.S. Environmental Protection Agency (EPA) to contend with. This was one of the more sustained emergency responses for the EPA in recent memory, lasting from the mid-September through mid-November.

EPA was tasked by the Federal Emergency Management Agency (FEMA) to handle environmental issues related to the hurricane. A command center was set up at FEMA headquarters in Atlanta and manned twenty-four hours a day. A similar command post was set up at EPA headquarters in Atlanta to coordinate field activities. Additionally, each state had a Disaster Field Office (DFO) which allowed coordination between state agencies, EPA, and FEMA.



EPA's role differed somewhat from its normal environmental responses in that there were no minimum requirements for their involvement. Any spill from five to five million gallons required their attention. Federal On-Scene Coordinators (OSC's) made on the spot decisions committing whatever resources were necessary to mitigate a threat. The overall goal was to relieve the state agencies of the tremendous financial, personnel, and resource burdens.

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### Conference Date Changed

Due to a recently announced Governor's Summit on Air Quality to be held at Stone Mountain Park on May 4-5, the Conference Planning committee has decided to reschedule the GA Chapter AWMA Annual Environmental Conference to September 14, 2000. Please mark this date on your calendar as we have an informative agenda and a lineup of exciting speakers. The conference will include regulatory updates on prevailing waste management and air quality issues, presentation of AWMA Environmental Awards, and a Plenary Session on air quality issues in metro Atlanta.

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Our mission is to promote a cleaner, safer environment in Georgia by focusing on air and waste issues. We achieve our mission through information transfer, technology exchange, education and environmental leadership.

Comments or questions about this newsletter or any of the functions of Air & Waste Management Association are encouraged.

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Delo Morris  
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## Superfund Recycling Exemption

Joan B. Sasine

Powell, Goldstein, Frazer & Murphy LLP

Despite opposition by numerous trade groups, including the Chemicals Manufacturers Association, an omnibus appropriations bill ("Bill") for FY2000 was passed by Congress and signed by President Clinton on November 29, 1999. The Bill contains language exempting certain recycling activities from liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1990 ("Superfund"). Scrap recycling is now considered "arranging for recycling" and is no longer considered to be "arranging for disposal" under Superfund. Specifically, those parties that send scrap metal, lead batteries, and other recyclable materials to sites for recycling that end up becoming Superfund sites will no longer be liable. A new section 127 in Superfund entitled "Recycling transactions" clarifies that a person who arranges for recycling of a recyclable material shall not be liable under sections 107(a)(3) and 107(a)(4) with respect to such recyclable material.

There are different criteria for transactions involving scrap paper, plastic, glass, textiles or rubber, and scrap metal or batteries. With regard to scrap metal, of prerequisites to be eligible for the liability exemption. These requirements include: 1) the person claiming the exemption must be in compliance with applicable standards and regulations regarding management, or other activities associated with recycling of scrap metal; and 2) the person did not melt down the scrap metal prior to arranging for recycling. With regard to batteries, the party must also meet several criteria to be eligible for the liability exemption. These criteria include: 1) the person must be in compliance with applicable federal environmental regulations and standards regarding the storage, transport, management, or other activities associated with recycling of batteries; and 2) the person cannot recover the valuable components of the batteries prior to arranging for recycling.



Regardless of the type of material being recycled, to take advantage of the exemption from liability a person must show that 1) the recyclable material met a commercial specification grade; 2) a market existed for the recyclable material; 3) a substantial portion of the recyclable material was made available for use as a feed stock for the manufacturer of a new saleable product; and 4) the recyclable material could have been a replacement or a substitute for a virgin raw material, or the product to be made from the recyclable material could have been a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

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There were several issues created by the rising floodwaters, the majority of which were in North Carolina. Floating tanks, containers, and drums, flooded water and wastewater treatment plants, flooded hog sewage lagoons, and several million dead turkeys and pigs were the primary concerns. These situations created a toxic soup with the potential to spread disease or poison drinking water sources for thousands of residents.

EPA and Tetra Tech EM Inc., EPA's Superfund Technical Assessment and Response Team (START) contractor, employed a variety of resources to survey the damages and search for environmental problems. Helicopters from the Tennessee Valley Authority (TVA) were used for aerial reconnaissance. Flat-bottom boats were used to go through neighborhoods looking for drums, tanks, or chemical spills. EPA's Water Division was mobilized to assist with water and wastewater issues. OSC's, START, and the U.S. Coast Guard joined in to sandbag undamaged hog lagoons. EPA also acted as a consultant in assisting in the disposal of animal carcasses. Each scenario created new challenges to find resources available and mount a complete response.

During EPA's operations in North Carolina, a total of 1,367 tanks, drums, and containers were recovered and disposed of. Over twenty million gallons of hog waste was cleaned up. More than one million gallons in spilled chemicals such as chromium waste, oil, and gasoline were recovered.

EPA's emergency response operations were successful due to detailed planning and contingencies for these types of emergencies. After each response of this magnitude, EPA reviews and evaluates its plans and revises them as necessary in order to continually improve services and the effectiveness of the emergency response program. EPA's role helped to prevent disease, long term environmental damage, and allowed residents to return home more quickly without a fear for their own health and the health of their families.

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Finally, a person loses the exemption from liability if there is an objective, reasonable basis to believe that the recyclable material would not be recycled, or that the recyclable material would be burned as fuel or for energy recovery or incineration, or that the processing or reclamation facility is not in compliance with substantive provisions of federal, state, or local environmental laws or regulations applicable to the handling, processing, reclamation, or the management activities associated with the recyclable material. In addition, a person loses the liability exemption if there is reason to believe that hazardous substances have been added to the recyclable material, or if the person fails to exercise reasonable care with respect to the management and handling of the recyclable material.

An unintended consequence of this new exemption is that recyclers that sent batteries and other materials (not covered by the liability exemption) may have increased liability at some Superfund sites. For example, if there are five potentially responsible parties ("PRPs") at a Superfund site where all but one PRP sent only batteries, the fifth PRP may end up being 100% liable for the costs of the Superfund site, if that PRP sent batteries and non-recyclable material (e.g., dross). This liability exemption will certainly require EPA and PRPs to revise allocations for those Superfund cases where there is no pending judicial action or concluded judicial or administrative action. Adding insult to injury, the EPA costs associated with revising allocations may also be shifted to the remaining liable PRPs.

## Message From The Chair

*Tom St. Clair  
So-Bran, Inc.*

What can you expect as a member of the GA Chapter of AWMA? The Executive Board has planned an exciting year of events and outreach that should provide opportunities for professional development and networking. For example, the GA Chapter has quarterly brownbag luncheons that provide speakers on current environmental topics and offer an opportunity to network with colleagues and technical experts (our next brownbag luncheon is February 25). Our annual environmental conference (September 14) provides an opportunity in one day to update your knowledge of critical waste management and air quality issues in Georgia and the Atlanta Metro region. We have a number of committees (e.g., technical programs, educational outreach, and conference planning, etc.) that need additional members and participation.

The GA Chapter is in the process of developing a Web site ([www.gaawma.org](http://www.gaawma.org)) that will greatly simplify the process of becoming an active member of the GA Chapter of AWMA. The Web site will post newsletters, articles, and planned events. Please watch the progress of our Web site and select those activities and events that are of the greatest interest to you. I urge you to get involved and make the most of your membership.



## Save The Date!

A&WMA GA Chapter  
September 14, 2000  
Gwinnett Civic & Cultural Center



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Send your comments or questions to:  
Sean Nicholl, P.E. - Editor  
Rindt-McDuff Associates, Inc.  
334 Cherokee Street  
Marietta, Georgia 30060  
Tel: (770) 427-8123 Fax: (770) 425-8930



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