

EPA scientist becomes critic

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By DAVID GOELLER

WASHINGTON (AP) — Congressional critics of a proposed Environmental Protection Agency rule on disposal of hazardous waste in landfills have found a new ally: an EPA scientist who helped write the controversial proposal.

He is Michael Burns of the staff of the Office of Solid Waste, who says many other technicians and lawyers at EPA share his concern that the proposal fails to meet Congress' stringent mandates for protecting the public.

"EPA's proposed land disposal restrictions program will ... virtually trample the concept of 'protection of human health and the environment,'" he wrote in a 27-page letter to Rep. James Florio, D-N.J.

Florio chairs the House commerce, transportation and tourism subcommittee. He is one of several key Senate and House members who have denounced the EPA plan for implementing the Hazardous and Solid Waste Amendments of 1984.

A central section of the 1984 law bans disposal of untreated hazardous waste in landfills unless a dump operator can prove to EPA the materials won't leak from the site "for so long as the wastes remain hazardous."

EPA, in what Florio and other authors of the law say is a clear violation of congressional intent, is proposing to allow untreated wastes to be put in landfills if toxic migration doesn't extend more than 500 feet from the site.

In recent testimony before Florio's subcommittee, Assistant EPA Ad-

ministrator J. Winston Porter said the proposal complies with the congressional mandate that land disposal be fully protective of human health and the environment.

But Burns told Florio there is deep division in the ranks of EPA over whether the draft rule will protect people and whether it is indeed legal under the terms of the 1984 law.

He said EPA proposed the rule "over the written objections of many of its regional office directors and despite the deep concerns of many of the technical and legal personnel who participated in its development."

Burns said the toxic-effect "screening model" used as a basis for the draft rule "is fundamentally flawed" and that to use it, EPA had "to adopt a creative interpretation of the statutory no-migration standard."

He said agency advocates of the model saw it as a "way to make the land disposal restrictions program 'reasonable.' ... Critical decisions that were made in the course of the model's development were designed specifically to make the screening levels less stringent."

Burns said "the modeling scheme is fraught with so many uncer-

tainties and fails to account for so many factors known to pose serious risks in land disposal that statements labeling the screening levels it establishes as 'fully protective' are questionable at best and, at worst, purposefully deceptive."

He wrote that concerns expressed by EPA staffers about the approach "have been largely ignored. ... Suggestions that the ... approach be abandoned are met with the response that 'this is the way (EPA Administrator) Lee Thomas decided to do it' when presented with alternative program options in the spring of 1985."

Burns predicted that EPA adoption of the rule "is likely to result in expensive litigation in which the agency's own attorneys acknowledge a slim likelihood of prevailing." Florio and other lawmakers already have threatened a court challenge.

Asked for comment on Burns' letter, EPA spokesman Dave Cohen said: "Mike is expressing his own views and not those of the agency. We are now in the middle of a (public) comment period on a difficult and controversial rule. We will be taking into consideration many of the types of concerns he has raised as well as other concerns before a final rule is issued."