

## APPLICABILITY OF THE REGULATIONS TO SLUDGE GENERATED BY A POTW

Q. Is sludge generated by a POTW a hazardous waste?

1.

A. ° POTW sludge is a solid waste (see Section 261.2(a) and Section 260.10(a)(63)). As a solid waste, it may be a hazardous waste.

° POTW sludge is not listed as a hazardous waste but may be a hazardous waste if it exhibits any of the characteristics of hazardous waste identified in Part 261, Subpart C.

° POTW sludge is only likely to be a hazardous waste because it exhibits the characteristic of EP toxicity identified in Section 261.24.

Q. How do I determine whether my POTW sludge is a hazardous waste?

2.

A. ° You are advised to test your sludge to determine if it exhibits the characteristic of EP toxicity as defined in Section 261.24, using the EP Toxicity Test Procedure outlined in Part 261, Appendix II. Additional guidance on this test procedure and the collection of representative samples for testing are provided in SW-846, Test Methods for the Evaluation of Solid Wastes, July 1980.

° The regulations do not require that you test your sludge to determine whether or not it is hazardous waste. You are permitted to make this determination based on knowledge about your sludge (see Section 262.11). However, EPA advises testing, particularly EP toxicity testing,

where there are significant contributions of industrial wastewater or stormwater into the POTW or where there is any reason to believe that the sludge may exhibit the EP toxicity characteristic.

- ° You should also determine whether the POTW sludge exhibits the other three characteristics of ignitability, reactivity and corrosivity identified in Section 261.21, 261.22 and 261.23. EPA believes that POTW sludge will rarely, if ever, exhibit these characteristics and believes that a determination against these characteristics can be made based on knowledge about the sludge without need of testing.
- ° The regulations place the responsibility of determining whether a POTW sludge is a hazardous waste squarely on the owner or operator of the POTW. He may choose any method he likes to make this determination. If he determines that his sludge is not a hazardous waste or fails to make a determination, and EPA finds that the sludge is a hazardous waste, then he is in violation of the regulations.

When do I determine whether my POTW sludge is a hazardous waste?

- A. ° First, you should determine whether your sludge is a hazardous waste by or before August 18, 1980, so that you can notify EPA, on or before August 18, 1980, if it is a hazardous waste in accordance with Section 3010 of RCRA.

- ° After August 18, 1980, you should periodically determine whether your sludge is a hazardous waste so that when it is a hazardous waste, it can be designated and managed as such, and so that you can notify that you generate a hazardous waste if you have not previously done so.
- ° Importantly, the regulations require that any person who generates a hazardous waste must notify EPA. If you determined that your sludge was not a hazardous waste by or before August 18, 1980, and therefore you did not notify EPA, and if you should subsequently determine that your sludge has become a hazardous waste, you should notify EPA at that time.
- ° When you notify EPA that you generate or manage a hazardous waste, you will receive an EPA Identification Number.

Q. At what point in my treatment process do I determine whether my sludge is a hazardous waste?

A. You should make this determination at the point that the sludge is withdrawn from the tank (e.g., clarifier, grit chamber) or impoundment in which the sludge is formed, or as soon downstream as possible, but in any case before the sludge is treated, stored or disposed of on-site or is transported off-site for any of these purposes.

Q. Can I have a private laboratory test my POTW sludge to determine if it is a hazardous waste?

A. Yes. Or you can test the sludge yourself or otherwise determine whether it is a hazardous waste.

Q. How much does an EP test cost?

6.

A. One commercial laboratory charges \$325.00 for analyzing, without replication, one sludge sample for the EP toxicity characteristic.

Q. Will EPA pay to test my sludge?

7.

A. No, but EPA will allow, under limited circumstances, the cost of a one-time EP toxicity test as a grant allowable cost in currently active and future construction grants projects.

Q. Must my screenings and grit also be considered as potentially hazardous wastes?

8.

A. Yes, you must also determine if your screenings and grit are hazardous wastes.

Q. If I determine that my POTW sludge is a hazardous waste and I notify EPA by or before August 18, 1980, what regulatory provisions apply to me?

9.

A. ° First, you are a generator of hazardous wastes and you must:

° Comply with the applicable requirements of Part 262. Most of these requirements apply only if you ship your sludge off-site. With respect to off-site shipment, they include initiation of a manifest, proper packaging, labeling and placarding, and recordkeeping and reporting.

° Second, if you treat (e.g., digest or dewater), store (e.g., in piles) or dispose of your sludge, you must:

- ° Submit Part A of a permit application in accordance with Section 122.22(a)(1) by November 19, 1980.
- ° Submit Part B of a permit application in accordance with Section 122.22(a)(2) within six months after being requested to do so by EPA.
- ° Third, if you, yourself, transport the sludge for off-site treatment, storage, or disposal, you must comply with the requirements of Part 263.

Q. What is Interim Status and how does it affect me?  
10.

- A: ° Interim Status is a designation which enables the owner and operator of a facility that treats, stores, or disposes of hazardous wastes to continue to operate after November 19, 1980, and until a RCRA, Subtitle C permit is issued or denied.
- ° The regulations provide that an owner and operator of a facility that treats, stores, or disposes of hazardous waste can qualify for and obtain Interim Status if:
    1. The facility is "in existence" (either in operation or under construction) on October 21, 1976 (the Congress is expected to enact a pending amendment to RCRA that will change this date to October 30, 1980).
    2. He submits part A of a permit application in accordance with Section 122.22(a)(1) by November 19, 1980.
    3. He submits a notification under Section 3010 of RCRA by August 18, 1980.
  - ° If these three conditions are not met, the owner and operator does not obtain Interim Status.

- ° An owner and operator of a POTW that generates and treats, stores or disposes of a sludge that is a hazardous waste, now or in the future, can qualify for and obtain Interim Status if he meets the above conditions. He should do this so that he can continue to treat, store or dispose of his sludge after November 19, 1980, and before a RCRA, Subtitle C permit is issued or denied. If he qualifies for but fails to obtain Interim Status then he will not be able to treat (e.g., digest or dewater), store or dispose of his sludge, if and when it is a hazardous waste, after November 19, 1980, without being in violation of the regulations.
- ° It can be argued that the regulations do not require you to comply with the Interim Status Standards of Part 265 (see Section 265.1(c)(3)). At the same time, the regulations reflect an EPA intent to regulate POTW sludge, when it is a hazardous waste, like all other hazardous wastes, including the application of Interim Status Standards. EPA recognizes that the regulations are ambiguous on this point and is developing an amendment to clarify this issue before November 19, 1980.

Q. If I do not notify EPA by or before August 18, 1980, that I  
11. have a hazardous waste because I correctly determined that  
my POTW sludge was not a hazardous waste, and I subsequently  
determine that my sludge has become a hazardous waste, what  
do I do?

A. ° First, you notify EPA at that time that you generate a hazardous waste, as discussed above. EPA will issue you an EPA Identification Number.

- ° Second, you must comply with the applicable requirements of Parts 262 and 263.
- ° Third, if you treat, store or dispose of your sludge on-site, you must submit Part A and Part B of a permit application in accordance with Section 122.26(b), and, because you do not have Interim Status as explained above, you must refrain from treating, storing or disposing of your sludge on-site after November 19, 1980, until you are issued a RCRA, Subtitle C permit. While waiting for the issuance of a permit, you must, therefore, send your sludge to a hazardous waste treatment, storage or disposal facility that has Interim Status or has been issued a RCRA, Subtitle C permit. EPA recognizes that this may and often will present a very difficult problem for POTW's caught in this predicament, because it will take time to issue a permit and, in the interim, it forecloses on-site digestion, dewatering and storage (except 90-day accumulation) of the large volumes of sludge typically generated by a POTW and requires unanticipated off-site transportation of the sludge to hazardous waste facilities that may not be available and may be located long distances away.

EPA is currently examining the unique problems of POTW's regarding compliance with this provision. Pending any change, however, it becomes extremely important for the owner and operator of a POTW to

obtain Interim Status so that he can continue to treat, store or dispose of his sludge pending issuance or denial of a permit if his sludge becomes a hazardous waste at some point in the future. To obtain Interim Status, the owner or operator must have notified EPA by August 18, 1980, and submitted Part A of a permit application by November 19, 1980 as addressed above. Therefore, if the owner or operator of a POTW has any reason to believe that his sludge is likely to be a hazardous waste at any point in the future, he should notify and submit a Part A on the dates given above even though his sludge is not now a hazardous waste.

Q. If my sludge is a hazardous waste, and I ship it to a land disposal facility, what requirements apply?

- A. ° First, you are required to notify as a generator of hazardous waste by August 18, 1980, as discussed above.
- ° Secondly, you are required to comply with the requirements of Part 262 which require, among other things, that you send the sludge only to a hazardous waste disposal facility that has Interim Status or a permit issued under Subtitle C of RCRA, and that you initiate a manifest for the shipment of the sludge.
- ° Thirdly, if you treat or store the sludge before shipment, you are required to submit Part A of a permit application by November 19, 1980, as discussed above.



Q. Same question as above except that I perform the land disposal;  
13. what requirements apply?

A. You must meet the same requirements as outlined in the answer to Question 12, plus you must submit Part A of a permit application by November 19, 1980, covering your land disposal activity.

Q. If my sludge is a hazardous waste and I ship it to a person  
14. who land spreads the sludge for beneficial use as a fertilizer  
or soil conditioner, what requirements apply? What require-  
ments apply if I perform the beneficial land spreading myself?

A. ° Because the sludge is being beneficially used, its actual use -- the land spreading of the sludge -- is exempt from regulation at this time (See Section 261.6(a)). Therefore, the person using the sludge is not now regulated by the regulations; he does not have to be a hazardous waste management facility having Interim Status or a RCRA permit. It should be noted, however, that EPA is examining this exemption and is considering an amendment to the regulations that would apply some or all of the land treatment requirements of Part 265, Subpart M, and, perhaps, other requirements to the beneficial land spreading of POTW sludge. Until such an amendment is promulgated and becomes effective, the beneficial land spreading of POTW sludge is not regulated under Subtitle C of RCRA.

° However, the transportation and storage (by your or other persons) of your sludge is regulated by the regulations

(see Section 261.6(b)). This means that you are required to:

- ° Notify as a generator of hazardous wastes by August 18, 1980, as discussed above.
- ° Comply with the requirements of Part 262.
- ° Comply with the requirements of Part 263 if you provide the transportation for the sludge.
- ° Submit Part A of the permit application by November 19, 1980, as discussed above, if you provide storage of the sludge.
- ° If you do the beneficial land spreading of your sludge, the same requirements as discussed above apply with respect to transportation and storage. No requirements apply to the actual land spreading.

Q. - If my sludge is a hazardous waste and I land spread it but  
15. not for the beneficial purpose of fertilizing or conditioning  
soils, what requirements apply?

A. Such an activity does not qualify as a beneficial use subject to the special requirements of Section 261.6. Such activity is land disposal and you must meet the requirements outlined in the answer to question 12.

Q. If my sludge is a hazardous waste and I incinerate it on-site  
16. without recovering energy, what requirements apply?

A. ° You must notify as a generator and a treater and, if you store the sludge, as a storer of hazardous waste by August 18, 1980, as discussed above.

° You must also submit Part A of a permit application covering the incineration (and any storage or treatment) by November 19, 1980.

- ° You may also be a generator of incinerator ash which is a hazardous waste (see Section 261.3(c)) and, if so, you must include this information in your notification and also in your Part A permit application if you store or dispose of this ash.

Q. If my sludge is a hazardous waste and I incinerate it to recover energy, what requirements apply?  
17.

A. The answer parallels that given to Question 14. The incineration is a legitimate recycling of hazardous waste and is currently exempt from regulation but may be regulated in the future. Any storage or transportation of the sludge prior to incineration is subject to the regulations and you are required to meet those requirements outlined in the answer to Question 13.

Q. If my sludge is a hazardous waste and I compost or otherwise treat it for give-away or sale for beneficial use as a fertilizer or soil conditioner, what requirements apply?  
18.

A. Again, the answer parallels that given to Question 14. The composting or other treatment is part of a beneficial use of the sludge (see 261.6(a)(2)) and is currently exempt from the regulations but may be regulated in the future. Any transportation or storage of the sludge prior to or after composting or treatment is subject to the regulations and you are required to meet those requirements outlined under Question 13.

APPLICABILITY OF THE REGULATIONS TO HAZARDOUS WASTES RECEIVED  
BY POTW'S

Q. If hazardous wastes are discharged into my POTW sewer system through sewer connections into the system, what requirements apply?

A. Hazardous wastes mixed into domestic sewage through sewer connections into a POTW sewer system are not subject to the regulations (see Section 261.4(a)(1)(ii)). However, comments have been solicited on this interim final exemption and it possibly could change when any comments received are assessed and this provision is finalized.

Q. If I receive, into my POTW, hazardous wastes delivered by truck or rail or any other non-sewer conveyance, what requirements apply?

A. The regulations allow you to receive such hazardous wastes but require you to comply with the requirements of Section 122.26. Under these requirements, you must have and be in compliance with an NPDES permit, must have notified under Section 3010 of RCRA and thereby received an EPA Identification Number, must comply with the manifest requirements with respect to the hazardous wastes received, must comply with certain reporting and recordkeeping requirements and must comply with Federal, State and local pretreatment requirements that would be applicable to the hazardous wastes received if they had been received by the POTW through a sewer connection. If you comply with these requirements of Section 122.26, you have a

permit by rule and do not have to submit part A of a permit application with respect to your receipt and handling of such hazardous wastes.

## EPA Regional Notification Contacts

<u>Area Served</u>	<u>Notification Contact and Telephone Number(s)</u>
Connecticut, Maine ----- Massachusetts, Rhode Island Vermont, New Hampshire	Rich Cavagnero EPA Region I (617) 223-0240
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Alabama, Florida, Georgia ----- Kentucky, Mississippi, North Carolina, South Carolina, Tennessee	Ray Cozart EPA Region IV (404) 881-3446
Illinois, Indiana, Michigan ----- Minnesota, Ohio, Wisconsin	Y. J. Kim EPA Region V 800-572-3176 (IL) 800-621-3192 (IN, MI, MN, OH, WI)
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