



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 2 1992

OFFICE OF
WATER

MEMORANDUM

SUBJECT: National Approach to Sewage Sludge Implementation

FROM: Michael B. Cook, Director
Michael B. Cook
Office of Wastewater Enforcement and Compliance

TO: Water Management Division Directors
Regions I - X

I wanted to take this opportunity to share my thoughts with you on the overall direction and thrust of the Agency's sludge implementation efforts and to solicit your assistance in a number of key areas. These observations are based on discussions with many of you over the last several months as well as on feedback we've received from States, localities, and other groups. With promulgation of final Part 503 standards for sewage sludge use and disposal imminent, now is an appropriate time to focus renewed attention on implementation of the sewage sludge program. It is our intention, in this time of limited resources, to establish the sludge management program in a manner that is creditable and responds to statutory mandates of protecting human health and/or the environment while supporting beneficial use of sludge.

Regional Permitting Activities and Regional Implementation Strategies

Although the final rule is expected to be largely "self-implementing," we believe that the Part 503 technical standards must ultimately be implemented through permits. A permit allows for the imposition of site-specific permits limits and operational standards, particularly for such entities as surface disposal sites and incinerators. It allows monitoring, recordkeeping, and reporting requirements to be tailored to a particular site. It clarifies a facilities' responsibilities and creates a partial affirmative defense with respect to 503 compliance. Issuance of permits can also serve to reassure the public in connection with particular use and disposal operations. Finally, sludge permitting is required by Section 405(f) of the Clean Water Act.

As you know, agreements with States to conduct sludge permitting activities under the interim strategy will be invalid after promulgation of the technical standards. After that date, only authorized State sludge programs or Regional offices will be able to issue Section 405(f) sludge permits. Regions need to prepare to handle this additional workload in the most administratively workable approach possible and we have suggested a number of possible approaches in previous correspondence on Regional Implementation Strategies (copy of 6/22/92 draft guidance is attached).

In particular, a number of tools exist, including general permits and "piggy back" individual permits to help ease the permitting burden. Accordingly, we have convened a workgroup comprised of Regional sludge coordinators and Headquarters staff to develop model general permits for use by all Regions. I would encourage you to offer your full support to your staff for these activities. Also, we are developing a permit writers guidance document and a model automated permit to facilitate permit issuance. Drafts of these permit writers' tools should be available for review in the next month; working copies should be available shortly after promulgation of Part 503.

In addition, we have proposed that each Region develop an Implementation Strategy that would discuss its plans relative to sludge permitting, enforcement, and outreach. Contrary to concerns expressed by some, we view such a document as an opportunity for each Region to develop a comprehensive blueprint to assist Regions in developing its approach to sludge implementation, not as an occasion for Headquarters to set up a new set of performance measures. As with any new program, we all expect to learn from our collective experiences and improve our process as we progress. We will issue final guidance on developing Regional implementation strategies within the next few weeks.

Regional Enforcement of the Technical Standards

To the extent the Part 503 standards are "self implementing," we need to respond to noncompliance as it comes to our attention. As we have previously agreed, the primary emphasis of our compliance and enforcement activities will be directed toward Class I Sludge Management Facilities. At this time, we anticipate that the universe of these entities is approximately 4,000. Determining the exact number and identity of these facilities will be an important first step in building a viable compliance program. In addition, we recently (July 23, 1992) circulated some proposals for designing Regional strategies to carry out those activities as resources allow. We look forward to working with you and your staff to develop a sludge enforcement program which is risk-based, effective in promoting beneficial reuse of sludge, and as efficient as possible.

Status of Sludge State Program Activity

I believe we all recognize that the long term effectiveness of this program will depend, to a considerable degree, on the willingness of States to become formally approved to administer the sewage sludge permitting program. Congress intended for sludge management decisions to occur at the local level and for the program to be implemented and enforced primarily at the State level. EPA shares those objectives and has reflected them in its rulemakings.

I also recognize that States have been unwilling thus far to develop sewage sludge management program submissions for approval on the basis that they want to first see the final 503 technical standards and assess the technical, legal, and resource ramifications of these standards on their various programs. I can certainly appreciate their caution in this regard, but I don't believe the absence of the final promulgated Part 503 technical standards is sufficient reason for States and EPA Regional offices to suspend all activity relative to State sewage sludge management programs. In addition, I suggest we emphasize to the States the potential duplicative permitting scheme that may result with federally issued sludge permits (or direct implementation of Part 503) and State sludge permits (with, in certain cases, different requirements).

Where States have elected to await final promulgation before submitting formal applications, there is still much that can be done to prepare for formal authorization of State programs. Preparatory steps include review of existing State program authorities and technical requirements and development of draft program submission documents (program description, attorney general statement, MOA).

The Agency promulgated regulations specifying the requirements for State program submissions [54 FR 18716, May 2, 1989] and has developed guidance to support this process. (We are forwarding an additional copy of these documents to your Regional sludge coordinator.) The guidance provides examples of model documents and checklists which can be used to help facilitate development of State program submissions. We have provided contract assistance previously to assist Regions and States in this process and strongly encourage Regions to consider including such assistance in their FY93 Regional contract plans. Finally, my staff stands ready to provide whatever assistance it can to both Regions and States in preparing for State authorization. We have demonstrated in the last two years, in dealing with NPDES general permits program modifications, the success that can result when Headquarters, Regions and States work together on State program issues.

Need for Communication and Centers for Excellence

I believe that the recent flurry of activity regarding interstate transfer of sewage sludge has underscored the need for frequent communication at all levels and for well conceived approaches to our activities. The Agency's regulations provide a considerable degree of flexibility. However, we need to ensure that we have a well-documented basis for our actions and that we communicate appropriately with all concerned parties to apprise them of any decisions or actions which may affect them.

Sludge implementation activities of the magnitude required by Section 405 of the Clean Water Act are a relatively new phenomenon for many of us and will result in both expected and unexpected issues in initiating a new program. We can also expect the regulated community to have many questions about how particular sewage sludge practices will measure up under the new technical standards. As discussed in my August 14, 1992 memorandum, we set aside September 28 and 29 for the initial meeting to establish Centers of Excellence for sludge management. The centers will provide advice and assistance on specific technical aspects of sludge management to States, municipalities, consulting engineers, and others as they attempt to determine if existing or proposed sludge management practices comply with the new technical regulations.

In closing, let me say that I greatly appreciate the interest and enthusiasm of you and your staffs in developing this challenging new program area and look forward to working with you in the future as we chart this new course together. Please don't hesitate to contact me at (202) 260-5850, Cynthia Dougherty at (202) 260-9545, Richard Kozlowski at (202) 260-8304, or Michael Quigley at (202) 260-5859, if you have any questions or comments on this program.

Attachment

cc: Cynthia Dougherty
Richard Kozlowski
Michael Quigley
Regional Permits and Enforcement Branch Chiefs
Regional Sludge Coordinators