



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


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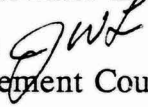
MEMO - 6 1003

OFFICE OF  
WATER

MEMORANDUM

SUBJECT: Transmittal of the Final Sludge Compliance Monitoring and Enforcement Guidance

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

John W. Lyon   
Acting Enforcement Counsel for Water

TO: Water Management Division Directors  
Regions I-X

Enclosed with this memorandum is a copy of the final Sludge Compliance Monitoring and Enforcement Guidance. This document has evolved over the past year and now reflects two rounds of comments from the Regions and States. We have preserved the framework of a five year plan (adopted in the January 7, 1993, draft), but we scaled back our description of the minimum program, and we increased the amount of flexibility the Regions have to tailor the program to specific Regional priorities. Our rationale for developing this Guidance was based on the following objectives: identify and track beneficial uses of sludge; provide maximum Regional flexibility while presenting a credible program to external interests; identify any noncompliance which impedes the public acceptance of beneficial use practices (and respond with appropriate enforcement action); phase in Regional activities to spread the work load over time; and complement the risk analysis supporting the Part 503 rule by targeting compliance and enforcement activities to those areas which present the greatest potential risk to public health and the environment.

This Guidance strikes a balance between legitimate concerns regarding the resource commitment necessary to implement its elements and the need to establish a credible Federal sludge program. As such, we intend for this final document to be used as a minimum Regional compliance and enforcement plan for sludge.

**Background:**

The original draft Guidance, distributed in July 1992, presented a comprehensive program for sludge management, with an inventory universe of 20,000 facilities and a compliance monitoring and enforcement universe of 4,000 facilities. The comments from the Regions on this draft reflected the obvious resource burden which this would entail. On January 7, 1993, a second draft of the Sludge Compliance Monitoring and

Enforcement Guidance was distributed to the Regions for comment. The January proposal reduced the expected workload for sludge from the original proposal by spreading recommended activities over time.

The January proposal provided recommended activities in the following areas: outreach and training, compliance activities, data management, and enforcement. These activities were presented as a time line over a five year period, with priorities for each broad area of activity established for each fiscal year (or inspection year for inspection activities). The majority of comments from the Regions favored the overall framework of the Guidance, but there were continuing concerns over the level of resources required to implement the Guidance elements and the degree of flexibility available to the Regions. In response to the comments from several of the Regions, we further reduced our expected minimum program. We also increased the amount of flexibility for tailoring the program to address priorities specific to each Region.

**The Final Guidance:**<sup>1</sup>

The final Guidance presents the following as a base program:

***Data Management:***

- WENDB Inventory Data  
(Class I's)  $\frac{1}{2}$  in FY94 and  $\frac{1}{2}$  in FY95 (1,000 each FY);  
(non-Class I, NPDES majors) FY96 (1,900);
- WENDB Compliance Data  
(NPDES, Class I's)  $\frac{1}{2}$  in FY94 and  $\frac{1}{2}$  in FY95 (800 each FY);  
FY96, FY97 and FY98 (1,600 each FY).

***Report Reviews/Compliance Evaluations:***

- Class I's  $\frac{1}{2}$  in FY94 and  $\frac{1}{2}$  in FY95 (1,000 each FY);  
FY96, FY97, FY98 (2,000 each FY).

***Inspections:***

- Class I's IY's 95, 96, 97 and 98 (500 each year).

***Sampling:***

- Subset of Class I's (10%) IY's 95, 96, 97 and 98 (50 each year).

***Enforcement Priorities:***

- Failure to Keep Records FY93 and FY94 NOV
- Illegal Disposal of Sludge FY93 and FY94 NOV
- Failure to Report FY94 NOV
- Sludge SNC FY95, FY96, FY97 & FY98 T & A Action

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<sup>1</sup> All numbers presented are national estimates (e.g., in FY94, 1,000 Class I facilities should have a report review and compliance evaluation *nationwide*).

A workgroup comprised of Headquarters, Regional and State representatives has already begun the process of defining the appropriate WENDB data elements for sludge. We expect to complete this task by the end of FY93. The core of the WENDB data elements will most likely include basic inventory data and summary compliance information, but the final recommendation for data elements will be determined by the workgroup. These recommended data elements will then be distributed to Regional management for concurrence. In addition to this effort, a workgroup will be established to determine which violations of sludge requirements will be considered significant noncompliance (SNC). This workgroup will commence in the Fall of 1993, and the SNC definition will be completed by the end of FY94. Therefore, by FY95, SNC will become the principal enforcement focus for sludge.

Under the final Guidance, the Regions can identify which Class I facilities will receive compliance evaluations in FY94 and FY95, as well as which facilities will receive an inspection in any given year. We have established recommended target numbers for the scope of the inspection activities and a recommended universe of facilities to be covered by inspections in each inspection year, but the Regions retain full discretion of which facilities to cover to meet this target. Our recommendations are based on priorities of facilities which present the greatest potential threat to public health and the environment.

Conclusion:

This Guidance reflects the efforts of the Regions and Headquarters to devise a sludge program compliance and enforcement strategy which meets certain minimum requirements but still allows the Regions the flexibility to tailor their programs to Regional needs. This process was possible only through the cooperative efforts and input from each Region. Your comments and insights were invaluable in developing this document. The Guidance which has resulted from this cooperative process represents a credible framework to implement the sludge program, and we strongly recommend that the Regions adhere to its principles as well as the compliance monitoring and enforcement activities it recommends. We have attempted to reduce the resource burden as much as possible, maintain Regional flexibility, and address the most significant compliance and enforcement issues in a rational manner. If you have any questions on this Guidance, please feel free to contact either of us.

cc: Cynthia Dougherty  
Regional Sludge Coordinators  
Regional Counsels

***Sludge Compliance Monitoring and Enforcement Guidance***

Prepared By:

**The Office of Wastewater Enforcement and Compliance  
Water Enforcement Division  
U.S. Environmental Protection Agency  
Washington, D.C. 20460**

March, 1993



**General Overview:**

**Objectives for Implementing the Sludge Program:**

- Promote the beneficial reuse of sludge.
- Minimize the resource investment as much as possible while still maintaining a credible compliance program.
- Provide maximum flexibility and discretion to the Regions.
- Provide for as simple a program as possible.

**Background:**

Overall, the revised guidance recommends the following elements: entering inventory data into PCS for all Class I's and major municipals (4,000 facilities) to be completed over four fiscal years (FY93 thru FY96) and updated as needed after this; initial report reviews and compliance evaluations for all Class I's (2,000 facilities) to be conducted over two fiscal years (FY94 and FY95) and annual compliance evaluations for all Class I's in each subsequent year; inspections at all Class I's (2,000 facilities) completed over a five year inspection year period (1994-1998); sampling at a subset of the facilities inspected (we have recommended a 10% coverage); and PCS data entry of WENDB data elements annually for NPDES, Class I facilities which are majors (1,600 facilities). The guidance represents the recommended minimum framework for conducting compliance monitoring and enforcement activities relating to sludge over the next five years. It is intended to be used by the Regions as the basis for developing their strategies and priorities for implementing the sludge program.

Until states are approved to manage the sludge program, the EPA Regions and Headquarters are responsible for all implementation activities related to sludge. The outreach and training activities outlined in the guidance are largely the responsibility of Headquarters, while the compliance monitoring, data management, and enforcement activities are primarily the responsibility of the Regions. Many portions of the Part 503 regulations are intended to be self-implementing, i.e., no permit is required for implementation. As a result, during the initial phase of implementation for Part 503, there will be regulatory requirements which have not been communicated to the regulated community through a permit. Therefore, outreach and training, both to the regulated community and to the regulators (either states or EPA), will be crucial to the successful implementation of the program.

**Structure of the Guidance**

The revised guidance is presented as a time line beginning in FY93 and creates a plan of action for sludge ending in FY98. Within each fiscal year, the strategy provides recommended minimum activity for sludge in the following areas: Outreach and Training, Compliance Activities, Data Management, and Enforcement. In addition, at the beginning of each fiscal year, milestone dates for the Part 503 rule are outlined. The Compliance Activities and Data Management sections are further broken down into the number of facilities nationally for which a particular action is required (e.g., 800 facilities across the nation should have WENDB compliance data input into PCS in FY94 and FY95) as well as the recommended frequencies for these activities during each fiscal year.

## *Sludge Compliance Monitoring and Enforcement Guidance*

**Fiscal Year '93**

**Milestone Dates in the Part 503 Regulations for FY93:**

- 11/25/92 Regulation signed
- 2/19/93 Publication date in the Federal Register
- 7/20/93 Beginning date for monitoring and record keeping (except THC)
  - Pollutant concentration
  - Pathogens/Vectors
  - Operational Standards
    - oxygen concentration
    - moisture content
    - combustion temperature
- 8/18/93 Application deadline for incinerators and other Treatment Works Treating Domestic Sewage (TWTDS) requesting site specific factors
  - Permit issuance process begins for incinerators and other TWTDS requesting site specific factors.

**Outreach and Training Activities:**

- Sponsor public meetings and conferences to discuss compliance monitoring/enforcement aspects of Part 503.
- Record Keeping and Reporting Guidance:
  - complete and distribute to the regulated community to support the required monitoring and record keeping activities beginning on 7/20/93.
- Inspection Guidance and Training:
  - develop and distribute new inspection guidance to the Regions to support inspection activities in FY95.
  - the new guidance will mimic the existing guidance (i.e., incorporate sludge inspections into the existing NPDES/PT framework) but will reflect the requirements in Part 503.
  - develop and present inspector training (e.g., sampling video, inspector workshop for EPA personnel).
  - inspections conducted in FY93 should use the existing inspection guidance
- Assemble Work Group to Define WENDB Data Elements for Sludge.
- Assemble Work Group to Determine Sludge SNC elements.

<u>Data Management:</u>	<u># of Facilities</u>	<u>Frequency</u>
<ul style="list-style-type: none"> <li>• Continue to enter existing DMR report data on sludge quality from priority sludge facilities which are majors in accordance with the existing January, 1991 guidance.</li> </ul>	N/A 1,500*	N/A Once
<u>Compliance Activities:</u>	<u># of Facilities</u>	<u>Frequency</u>
<ul style="list-style-type: none"> <li>• Begin to identify the universe of Class I sludge management facilities.</li> <li>• Report Reviews/Compliance Evaluations:                             <ul style="list-style-type: none"> <li>- no activity (reports not to be submitted until FY94).</li> </ul> </li> <li>• Inspections:                             <ul style="list-style-type: none"> <li>- continue to incorporate sludge components into existing NPDES/PT inspections and conduct inspections at facilities at the Region's discretion, using the existing inspection guidance.</li> </ul> </li> <li>• Sampling:                             <ul style="list-style-type: none"> <li>- conduct on an as needed basis to support any enforcement actions.</li> </ul> </li> </ul>	0  STARS #/%  Reg. Discretion	N/A  Once  N/A

**Enforcement:**

**Enforcement Priorities**

- Failure to keep records (as identified through an inspection).
  - Recommended response: notice of violation.
- Illegal disposal of sludge (e.g., placing of sludge directly into waters of the U.S.)
  - Recommended response: formal enforcement action.

\* estimated number of facilities for which action is required



*Fiscal Year '93*

*Outreach and Training Activities:*

The Enforcement Division at EPA Headquarters is in the process of completing the following projects to ensure that the Part 503 requirements are widely understood. We are developing a guidance for the regulated community describing how to comply with the reporting and record keeping requirement in the rule. This guidance will include a standardized reporting format for each disposal option, including THC record keeping under Incineration. The guidance will be completed prior to the beginning date for monitoring and record keeping (7/20/93). In addition, we have completed the development of a sampling video which outlines the proper procedures for collecting and preserving representative samples from various sludge processes. This video will be used in conjunction with an inspector training program for sludge which will be developed by Headquarters (with Regional support) prior to the compliance date of Part 503 (2/19/94). The existing inspection guidance will also be revised at the same time to reflect the final rule. Finally, two work groups will be convened in FY93. The first workgroup will determine what will constitute significant noncompliance for sludge. This workgroup will consist of Headquarters, Regional and State representatives. The second workgroup will address the issue of what data should be kept in an automated system, what kind of system will be used, and which facilities will be covered. This workgroup will also have Headquarters, Regional, and State representation.

*Data Management:*

The most significant issue for data management in the sludge program will be the identification of the WENDB data elements. This process has been initiated through a workgroup consisting of Headquarters, Regional and State representatives. Until sludge WENDB data elements are established, the Regions should enter DMR data reported by "priority" facilities into PCS in accordance with the January, 1991 guidance for data management in the interim period. The "priority" facilities identified in the Interim Strategy consist of the POTWs with approved Pretreatment Programs and those facilities with known or suspected problems with sludge quality. The estimated number of these facilities is 1,500 nationwide.

*Compliance Activities:*

In FY93, the process of identifying the universe of Class I's and majors should commence. Identifying the Class I sludge management facilities is important because the Class I universe represents the primary core of facilities for which compliance and enforcement activities are recommended. The Class I's and majors account for the majority of the sludge used or disposed in the country, and thus represent the greatest potential for harm to public health or the environment. Therefore, the process of identification should be completed as soon as possible. We recommend that the Regions complete this identification by FY96.

Since there will be no reports submitted to the permitting authority under 503 in FY93, the Regions will not be required to conduct compliance evaluations for the Part 503 rule. However, under the Interim Strategy, the Regions were required to establish permit conditions for sludge at least at "priority" facilities, and these facilities may be submitting reports to the Region. These reports should be screened as a routine part of the Region's EMS procedures; and compliance should be evaluated for these facilities based on the established permit conditions. Similarly, the Regions should continue to incorporate sludge components into existing NPDES and Pretreatment inspections and conduct these inspections at the frequency specified in the Region's annual commitments for the 1993 inspection year. Sampling of sludge facilities in FY93 should be conducted at the Region's discretion.

*Enforcement:*

In FY93, the compliance date for Part 503 will not have occurred (although facilities will be required to begin monitoring and record keeping), and no definition of sludge SNC will exist. Therefore, the priorities for sludge enforcement should be those facilities which fail to commence monitoring and record keeping and those facilities which place sludge directly into waters of the U.S. or which have sludge run off into waters of the U.S. causing environmental harm (which will not be a violation of 503, since compliance with the general requirements of the rule will not occur until FY94, but will be a violation of the Clean Water Act - §402). Failure to commence monitoring and record keeping will need to be identified through an inspection.

## Sludge Compliance Monitoring and Enforcement Guidance

**Fiscal Year '94**

**Milestone Dates in the Part 503 Regulations for FY94:**

- 2/19/94 Compliance date for the Part 503 standards (where construction is not required).
- 2/19/94 Closure date for active sewage sludge units located: 1) within 60 meters of a fault (unless authorized in a permit); 2) in a wetland (unless authorized in a permit); and 3) in an unstable area.
- 2/19/94 Report due date for Class I's and major municipal facilities.
- 2/19/94 Identification data due date for sludge only facilities (e.g., sludge distributors).

**Outreach and Training Activities:**

- Complete the work group identification of sludge WENDB data elements.
- Complete the work group determination of sludge SNC.
- Continue inspector workshop training at the Regions.

**Data Management:**

- Enter inventory data, similar to NPDES minors, into PCS for ½ of the Class I sludge management facilities, to include:
  - Name, location, and ownership status (public, private, federal);
  - Sludge use or disposal practice(s);
  - Annual sludge production volume (mt/yr) by practice; and
  - NPDES or sludge only permit number.
- Enter WENDB compliance data (to be defined) into PCS for the one half of NPDES, Class I facilities with a compliance evaluation and/or inspected.
  - At the Region's option, it may establish a separate PC-based system to track data for non-NPDES, Class I facilities.

**# of Facilities**

1,000\*

**Frequency**

Once

800\*

Once

400\*

Once

**Compliance Activities:**

- Continue to identify the Class I sludge management facilities.
- Report Reviews/Compliance Evaluations:
  - screen one half of all Class I sludge facilities for noncompliance.
- Inspections:
  - continue to conduct inspections at the Region's discretion based on Regional priorities, using the newly developed inspection guidance.
- Sampling:
  - sample a random subset of the Class I sludge management facilities inspected by the Region.

**# of Facilities**

N/A

1,000\*

**Frequency**

N/A

Once

STARS #/%

Once

Reg. Discretion

Once

**Enforcement:**

**General**

- Regions will take enforcement according to Regional strategies and priorities.
- In their enforcement strategies/priorities, Regions may take into account states with effective sludge programs, e.g., in deciding on whether to take an action against a violation, the Region may defer actions in states which effectively enforce comprehensive sludge management programs. A priority system similar to the following may be followed:
  - High Priority for action - States without NPDES approval and weak sludge management programs.
  - Low Priority for action - States with effective sludge management programs, regardless of NPDES status.

**Enforcement Priorities**

- Failure to keep records (as identified through an inspection).
  - Recommended response: notice of violation.
- Failure to Report
  - Recommended response: notice of violation.
- Illegal disposal of sludge (e.g., placing of sludge directly into waters of the U.S.)
  - Recommended response: formal enforcement action.

\* estimated number of facilities for which action is required



**Fiscal Year '94**

**Outreach and Training Activities:**

The definition of SNC for sludge violations should be completed by FY94. Once this definition is established, it should form the foundation for formal enforcement action with regard to sludge in FY95. The inspection/inspector training begun in FY93 will continue in FY94 to guide the conduct of "sludge inspections" in subsequent years.

**Data Management:**

It is likely that the sludge WENDB data elements will include some inventory data, since these data are fundamental to the program. The inventory data provide the basis for establishing permitting and inspection priorities and for tracking the scope of beneficial use of sludge. Identifying information for the inventory will come from annual self monitoring reports due from all Class I's and majors on February 19<sup>th</sup> of each year. Once this information is received, WENDB inventory data for one half of the Class I facilities should be entered into PCS (approximately 1,000 facilities nationwide for FY94). Compliance data from the reports reviewed (or from the inspection for the targeted Class I facilities) should be entered into PCS to the extent that the compliance data are identified as WENDB data elements. For the most part, the Class I facilities will be NPDES majors. However, we recommend strongly that the Regions enter data into PCS for Class I's which are minors, as they do for pretreatment POTWs which are minors. Data for non-NPDES, sludge only facilities which are identified as Class I's (e.g., regional sludge blenders/appliers) can be tracked either in PCS or in a PC-based system in the Region.

**Compliance Activities:**

On February 19, 1994, the first reports from Class I facilities and municipal majors are required to be submitted to the Regions. For FY94, the sludge strategy suggests conducting report reviews and compliance screening for one half the universe of Class I facilities, including non-NPDES, sludge only facilities identified by the Region. Since there are an estimated 2,000 Class I facilities nationwide, for FY94 it is recommended that the Regions complete compliance screenings for 1,000 facilities. It will be left to the Region's discretion to pick which facilities will be screened for compliance purposes, but we recommend that priority be given to the largest facilities or those facilities with known problems (e.g., deficient Pretreatment Programs). The balance of these facilities should have compliance screenings in FY95.

By FY94, the inspection guidance will be complete, and the inspector training will be well under way. Since the reports from Class I sludge management facilities and major municipals are not due until February of this fiscal year, there may not be adequate time to identify, plan for, and complete inspections at Class I's. Therefore, we recommend that the Regions continue to incorporate sludge components into existing NPDES/Pretreatment inspections and conduct inspections in FY94 at facilities as specified in the Region's annual commitments, using the newly developed inspection guidance.

**Enforcement:**

Since there will be no available definition of SNC in FY94, priorities for formal enforcement should continue to be those facilities which fail to monitor or keep records and those facilities which place sludge on the land such that it enters waters of the U.S. (in FY94, the compliance date for 503 will have passed, so these actions will be direct violations of the regulation). In addition, by February, 1994, Class I's and majors will be required to report. Therefore, failure to report should also be addressed with an enforcement action. For these types of violations, we recommend that the Region respond with at least an administrative order.

In FY94, compliance can be assessed from data reported by the regulated facilities or through information gathered during an inspection. Any instance of noncompliance identified through a compliance evaluation should be met with at least an informal enforcement action, e.g., phone call or letter.

## Sludge Compliance Monitoring and Enforcement Guidance

**Fiscal Year '95**

**Milestone Dates in the Part 503 Regulations for FY95:**

- 2/19/95 Compliance date where construction of new pollution control facilities is required to comply with the standards.

**Outreach and Training Activities:**

- Continue/repeat inspector workshop training as necessary.
- Use the Small Flows Clearinghouse to disseminate compliance information on Part 503.
- Use the National Training Center (Univ. of W. VA.) to train small POTWs on how to comply with Part 503.
- Use the Operation and Maintenance and SCORE programs to educate the regulated community about 503 compliance issues.

**Data Management:**

- Enter inventory data, similar to NPDES minors, into PCS for the second ½ of the Class I sludge management facilities, to include:
  - Name, location, and ownership status (public, private, federal);
  - Sludge use or disposal practice(s);
  - Annual sludge production volume (mt/yr) by practice; and
  - NPDES or sludge only permit number.
- Enter WENDB compliance data (to be defined) into PCS for the second half of NPDES, Class I facilities with a compliance evaluation and/or inspected.
  - At the Region's option, it may establish a separate PC-based system to track data for non-NPDES, Class I facilities.

**# of Facilities**

**Frequency**

1,000\*

Once

800\*

Once

400\*

Once

**Compliance Activities:**

- Complete the identification of Class I sludge management facilities.
- Report Reviews/Compliance Evaluations:
  - screen the second half of all Class I sludge management facilities for noncompliance.
- Inspections:
  - inspect a subset of the Class I universe as specified by the Region based on Regional priorities.
- Sampling:
  - sample the sludge from a random subset of the Class I sludge management facilities inspected by the Region.

**# of Facilities**

**Frequency**

N/A

N/A

1,000\*

Once

500\*

Once

50\*

Once

**Enforcement:**

**Enforcement Priorities**

- Sludge SNC (as defined by the EPA workgroup) identified through report reviews for any use or disposal practice.
  - Likely elements identified in a report include: failure to report, exceedances of pollutant limits, and instances of environmental harm.
  - Respond with a timely and appropriate enforcement action.
- SNC (as defined by the EPA workgroup) identified through inspection reports and DMR report data for the Class I facilities inspected by the Region in FY95.
  - Additional elements identified in an inspection include: failure to keep records, and data falsification.
  - Respond with a timely and appropriate enforcement action.
- Any instance of noncompliance identified through the compliance evaluation.
  - Respond with an informal enforcement action: notice of violation or phone call.

\* estimated number of facilities for which action is required



***Fiscal Year '95***

**Outreach and Training:**

By FY95, inspection training activities will be conducted on an as needed basis, with the potential for new training to be developed as the program matures. By FY95, we will need to make a concerted effort to reach the universe of facilities which are regulated by 503 but who are not within the universe for focused compliance and enforcement activities (e.g., NPDES minors). There are approximately 16,000 of these facilities, and we will attempt to reach this universe using such programs as the Small Flows Clearinghouse and the National Training Center to provide information on the compliance aspects of the Part 503 regulation. These activities will be on-going as needs are identified in this area.

**Data Management:**

The Regions should complete entering the inventory data into PCS for the Class I sludge management facilities. The Regions should also complete entering the WENDB compliance data for the NPDES, Class I sludge management facilities. As noted earlier, other data from the non-NPDES, Class I facilities may be tracked in PC-based systems kept at the Region. It is estimated that 400 non-NPDES, Class I facilities exist at the present time, but it is likely that this number will increase over time as this practice becomes more common (e.g., regional sludge distribution or processing centers).

**Compliance Activities:**

The Regions should complete compliance screenings for the second half of the Class I facilities which were not reviewed the previous year (NOTE: This compliance screening should be based on the most recent report received from the facility). By the end of this fiscal year, the reports submitted by Class I sludge management facilities should have been reviewed to determine compliance based on the information contained in the report. For FY95, this means completing screenings for 1,000 facilities nationwide.

The Region should develop a plan for conducting inspections at Class I sludge management facilities based on Region-specific priorities. The Region has discretion to choose which facilities are inspected in FY95, but there is a recommended target commitment to complete 500 sludge inspections nationwide in FY95. The number of inspections will be determined through the regular annual commitment process. We recommend that the initial inspection universe consist of the "exceptional quality" (EQ) facilities under Part 503 because once a facility claims EQ status under the rule, there are no further requirements regarding how much sludge can be applied to the land, or for how long the sludge may be applied. If we do not verify that the EQ facilities are truly meeting all EQ requirements, a significant potential for environmental harm is created. Sampling should be conducted at a subset of the Class I facilities inspected (or some other universe identified by the Region) to verify that the sludge meets applicable requirements. Throughout the strategy, we recommend a 10% coverage for sampling. This is reflected in the numbers presented (e.g., 50 facilities to be sampled nationwide in FY94, versus an anticipated 500 facilities inspected nationwide).

**Enforcement:**

The definition of SNC should be available for use by FY95 and should form the basis for establishing enforcement priorities for sludge. Any instance of SNC for any use or disposal practice identified through a report review should be met with a timely and appropriate enforcement response. The likely SNC elements which may be identified through a report review include: failure to report (within a certain time frame); exceedance of pollutant limits (e.g., concentration or loading limits for land application, or concentration limits for surface disposal or incineration); and instances of environmental harm (e.g., fish kill as a result of sludge contamination of a stream).

Inspections at the targeted Class I facilities will also provide a source of information which can be used to determine SNC. The types of SNC elements which may be discovered through an inspection include: failure to keep records; and data falsification (which will probably require sampling to determine). The Regions will have report data and inspection information available for the targeted Class I facilities. Therefore, the most complete picture of compliance can be determined for these facilities. The targeted Class I facilities, therefore, should be the primary focus for enforcement (both formal and informal) in FY95, but other instances of SNC identified through report reviews must also be addressed with timely and appropriate enforcement actions.



## Sludge Compliance Monitoring and Enforcement Guidance

**Fiscal Year '96**

**Milestone Dates in the Part 503 Regulations for FY96:**

- None.

**Outreach and Training Activities:**

- Continued on an identified needs basis.

**Data Management:**

- Enter inventory data into PCS for non-Class I, NPDES majors, to include:
  - Name, location, and ownership status (public, private, federal);
  - Sludge use or disposal practice(s);
  - Annual sludge production volume (mt/yr); and
  - NPDES or sludge only permit number.
- Update the inventory data for the NPDES, Class I facilities as necessary.
- Enter WENDB compliance data (to be defined) into PCS for all NPDES, Class I facilities.
  - At the Region's option, it may establish a separate PC-based system to track data for non-NPDES, Class I facilities.

**# of Facilities**

1,900\*

As necessary

1,600

400\*

**Frequency**

Once

Once

Once

Once

**Compliance Activities:**

- Complete the identification of non-Class I, NPDES majors.
- Report Reviews/Compliance Evaluations:
  - screen all Class I sludge management facilities for noncompliance.
- Inspections:
  - inspect a subset of the Class I universe as specified by the Region based on Regional priorities.
- Sampling:
  - sample a random subset of the Class I facilities.

**# of Facilities**

2,000\*

500\*

50\*

**Frequency**

Once

Once

Once

**Enforcement:**

**Enforcement Priorities**

- Sludge SNC (as defined by the EPA workgroup) identified through report reviews for any use or disposal practice.
  - Likely elements identified in a report include: failure to report, exceedances of pollutant limits, and instances of environmental harm.
  - Respond with a timely and appropriate enforcement action.
- SNC identified through inspection report data from the Class I facilities inspected by the Region.
  - Likely elements include: failure to keep records, failure to comply with loading limits, and data falsification.
- Any instance of noncompliance identified through the compliance evaluation.
  - Respond with an informal enforcement action: notice of violation or phone call.

\* estimated number of facilities for which action is required

*Fiscal Year '96*

*Outreach and Training:*

By FY96 training will be determined based on the needs and problems which arise during the implementation of the program.

*Data Management:*

In FY96 the Regions should complete their inventory of facilities required to report under Part 503 by including inventory data on non-Class I NPDES municipal majors. WENDB inventory data from these facilities must be entered into PCS. The estimated number of these facilities nationwide is 1,900. The major data management task for the Regions in FY96 will be entering WENDB compliance data into PCS. The compliance data will come for the most part from the required self-monitoring reports, but it will also be augmented by inspection data. (NOTE: There is no requirement to enter any of the data from any inspections of septage appliers into PCS).

*Compliance Activities:*

By FY96, all inventory data should be completed and either entered into PCS or kept in a PC-based system at the Region. With the completion of this task, it should now be possible to transfer the resources it took to complete the inventory to report reviews and compliance screenings. Therefore, in FY96, we recommend that all reports submitted by Class I facilities be screened for noncompliance.

The Region should continue inspecting Class I sludge management facilities in accordance with their inspection plan, but we recommend that the Regions consider conducting inspections at a strategically targeted group of septage appliers in addition to the Class I's, if resources allow. The number of inspections will be determined through the regular annual commitment process. The Part 503 regulation places requirements directly on septage appliers. These facilities are not part of the traditional universe of regulated facilities under the CWA and have not been included in any formal compliance monitoring or enforcement scheme. With 503, however, these facilities, while not required to report (unless designated as a Class I by the Region), are required to comply with application rates and management practices at their sites. It is estimated that there are 40,000 such appliers nationwide. Therefore, the potential for environmental and public health impact is large. In addition, the application of septage to agricultural land or open fields is often a controversial local issue. Given the fact that these facilities are not required to report under the rule, compliance by these regulated entities can only be verified through an inspection. We suggest that the Regions inspect a subset of the total universe of septage appliers. The Regions have discretion in deciding which appliers should be inspected. By maintaining a credible presence through these inspections, a message of compliance and deterrence will be sent to all septage appliers.

*Enforcement:*

Instances of SNC for any use or disposal practice must be met with a timely and appropriate enforcement action (see discussion from FY95). In FY96, formal enforcement priority should be focused on the Class I sludge management facilities which were inspected by the Region.

**Sludge Compliance Monitoring and Enforcement Guidance**

**Fiscal Year '97**

**Milestone Dates in the Part 503 Regulations for FY97:**

- None.

**Outreach and Training Activities:**

- Continued on an identified needs basis.

**Data Management:**

- Update the inventory data for the NPDES, Class I facilities and majors as necessary.
- Enter WENDB compliance data (to be defined) into PCS for all NPDES, Class I facilities.
  - At the Region's option, it may establish a separate PC-based system to track data for non-NPDES, Class I facilities.

**# of Facilities**

As needed

1,600\*

400\*

**Frequency**

Once

Once

Once

**Compliance Activities:**

- Report Reviews/Compliance Evaluations:
  - screen all Class I sludge management facilities for noncompliance.
- Inspections:
  - inspect a subset of the Class I universe as specified by the Region based on Regional priorities.
- Sampling:
  - sample a random subset of the Class I facilities.

**# of Facilities**

2,000\*

500\*

50\*

**Frequency**

Once

Once

Once

**Enforcement:**

**Enforcement Priorities**

- Sludge SNC (as defined by the EPA workgroup) identified through report reviews for any use or disposal practice.
  - Likely elements identified in a report include: failure to report, exceedances of pollutant limits, and instances of environmental harm.
  - Respond with a timely and appropriate enforcement action.
- SNC (as defined by the EPA workgroup) identified through inspection reports and DMR report data at Class I sludge management facilities inspected by the Region.
  - Additional elements identified in an inspection report include: failure to keep records, and data falsification.
  - Respond with a timely and appropriate enforcement action.
- Any instance of noncompliance identified through the compliance evaluation.
  - Respond with an informal enforcement action: notice of violation or phone call.

\* estimated number of facilities for which action is required.

*Fiscal Year '97*

*Outreach and Training:*

In FY97 training will be determined based on the needs and problems which arise during the implementation of the program.

*Data Management:*

Even though the inventory of all Class I facilities should be complete by this time, it will be necessary to devote some time to ensuring that this inventory is accurate and up to date. This should be an on-going task for each Region. We recommend that inventory data continue to be updated for the Class I facilities and municipal majors. WENDB compliance data must be entered into PCS for Class I facilities.

*Compliance Activities:*

We recommend that the Regions continue to conduct compliance reviews for all reports submitted by Class I facilities. Inspections should continue according to the Region's inspection plan, but we recommend that surface disposal facilities be targeted for inspection by the Region in FY97. The number of inspections will be determined through the regular annual commitment process.

*Enforcement:*

Instances of SNC for any use or disposal practice must be met with a timely and appropriate enforcement action (see discussion from FY95). In FY97, formal enforcement priority should be focused on the Class I sludge management facilities which were inspected by the Region.

**Sludge Compliance Monitoring and Enforcement Guidance**

**Fiscal Year '98**

**Milestone Dates in the Part 503 Regulations for FY98:**

- None

**Outreach and Training Activities:**

- Continued on an identified needs basis.

**Data Management:**

- Update the inventory data for the NPDES, Class I facilities and majors as necessary.
- Enter WENDB compliance data (to be defined) into PCS for all NPDES, Class I facilities.
  - At the Region's option, it may establish a separate PC-based system to track data for non-NPDES, Class I facilities.

**# of Facilities**

**Frequency**

As needed

Once

1,600\*

Once

400\*

Once

**Compliance Activities:**

- Report Reviews/Compliance Evaluations:
  - screen all Class I sludge management facilities for noncompliance.
- Inspections:
  - inspect a subset of the Class I universe as specified by the Region based on Regional priorities.
- Sampling:
  - sample a random subset of the Class I's inspected.

**# of Facilities**

**Frequency**

2,000\*

Once

500\*

Once

50\*

Once

**Enforcement:**

**Enforcement Priorities**

- Sludge SNC (as defined by the EPA workgroup) identified through report reviews for any use or disposal practice.
  - Likely elements identified in a report include: failure to report, exceedances of pollutant limits, and instances of environmental harm.
  - Respond with a timely and appropriate enforcement action.
- SNC (as defined by the EPA workgroup) identified through inspection reports at the Class I sludge management facilities inspected by the Region.
  - Additional elements identified in an inspection include: failure to keep records, and data falsification.
  - Respond with a timely and appropriate enforcement action.

\* Estimated number of facilities for which action is required

**Fiscal Year '98**

**Outreach and Training:**

In FY98 training will be determined based on the needs and problems which arise during the implementation of the program.

**Data Management:**

We recommend that inventory data continue to be updated for the Class I facilities and municipal majors. WENDB compliance data must be entered into PCS for Class I facilities.

**Compliance Activities:**

We recommend that the Regions continue to conduct compliance reviews for all reports submitted by Class I facilities. In FY98, inspections should continue to be conducted according to the inspection plan developed by the Region. We recommend that an inspection be conducted at a subset of the cumulative loading land application facilities and all sludge incinerators. By this time, it is likely that some sites are beginning to reach their limit for how much sludge can be applied. It is appropriate, therefore, to inspect these facilities to verify compliance with the cumulative loading rates established in the rule or permit. It may also be necessary to visit the sites themselves to verify compliance with applicable management practices. By this time, all sludge incinerators should have a permit in place which implements the Part 503 requirements. These facilities should be inspected to verify compliance with these permit conditions. The Regions continue to have the discretion to decide which facilities will be inspected. The number of inspections will be determined through the regular annual commitment process.

**Enforcement:**

Instances of SNC for any use or disposal practice must be met with a timely and appropriate enforcement action (see discussion from FY95). In FY98, formal enforcement priority should be focused on the facilities inspected by the Region during the year.

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