

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

SEP 21 1987

OFFICE OF  
WATER

MEMORANDUM

SUBJECT: Strategy for Implementing RCRA Permit-By-Rule Requirements at POTWs that Accept Hazardous Waste by Truck, Rail, or Dedicated Pipe

FROM: James R. Elder, Director  
Office of Water Enforcement  
and Permits (EN-335)

TO: Water Management Division Directors  
Regions I-X

Over the past several months, you and your staff have conducted a survey of POTWs to determine if any of these facilities are subject to corrective action under RCRA. This memo summarizes the results of your survey and outlines a strategy for implementing RCRA at POTWs that receive hazardous waste by truck, rail, or dedicated pipe. This memo is intended to supplement the Guidance on Implementing RCRA Permit-By-Rule Requirements at POTWs that I mailed to you on July 21, 1987.

Attachment 1 shows the results, by Region, of the POTW survey. Since my May 6 memo to you on this subject, the number of tentatively identified facilities has been reduced from 68 to 26. This reduction is a result of your continuing efforts to verify the receipt of hazardous waste by POTWs. The response rates have also been updated since my last memo. Eight Regions now report a response rate of 90% or higher. I am pleased with the progress of your surveys, and I commend you on your diligence in following through on this task.

Although we have tentatively identified 26 POTWs, this number may change. The number may go down if your follow-up efforts reveal that the waste received by a POTW does not meet the definition of a hazardous waste. The number may also decrease if a POTW, which indicated in the survey that it intended to accept hazardous waste in the future, changes its plans so that it no longer needs a permit-by-rule. It is also possible that the number of POTWs identified as receiving hazardous waste will increase. The number may increase as you follow-up on those POTWs that did not respond to your survey. Furthermore, our ongoing POTW audit program may identify facilities that

receive hazardous waste by truck, rail, or dedicated pipe. My staff is compiling the results from the POTW audits and if the audits reveal that a POTW (that is not identified in your POTW survey) received hazardous waste by truck, rail, or pipe, we will forward this information to you so that you may include the POTW in your RCRA implementation strategy.

The object of the RCRA survey is to identify those POTWs in your Region that must obtain a RCRA permit-by-rule. To assist you in completing the survey, I have included Attachment 2 - a flow chart that summarizes the major steps in identifying those POTWs that must obtain a permit-by-rule.

### Implementation Strategy for RCRA Surveys at POTWS

#### Step one:

The first step of the strategy is to follow through on all POTWs that did not respond to the survey. For minor POTWs, a certified letter and a phone call will usually be sufficient follow-up. If, however, there is reason to believe that a minor POTW has received or is receiving hazardous waste by truck, rail, or dedicated pipe, then additional follow-up efforts may be appropriate. If, after making these additional efforts, the minor POTW cannot be contacted, then make reasonable further efforts to determine why the POTW cannot be contacted and then cease follow-up efforts for this facility.

All major POTWs should submit survey questionnaires (Attachment 3). If a major POTW did not respond to the survey, the facility should receive a certified letter and a follow-up phone call. If the POTW does not respond after these efforts, then additional steps may be necessary. Additional steps may include contacting the State or other sources that may have the address and telephone number of the POTW.

After contacting a non-respondent, send the RCRA questionnaire to the facility. If the POTW responds affirmatively to any of the survey questions, then follow through on these responses in the same way as any other "yes" response. If the POTW does not respond to the survey, you should consider appropriate enforcement action. If the number of non-respondents is small (i.e., 6 in Region VIII), an administrative order should be issued to all non-respondents. Where the number of non-respondents is high (i.e., greater than 50), you should combine another round of letters and phone calls with administrative orders to priority non-respondents (those POTWs where there is reason to believe they may accept hazardous waste). The administrative order

should cite the failure to respond to a §308 request for information and should require submission of the information within 30 days.

Step two:

The second step in the strategy is to contact the POTWs that responded affirmatively to your survey and verify that the POTW received or is receiving hazardous waste. Where a waste is accompanied by a manifest, this verification step should be easy. However, where a waste is not accompanied by a manifest, it may be difficult to verify that the POTW received or is receiving hazardous waste. In these cases, it may be necessary to review the records and reports maintained by the POTW. Under 40 CFR §270.60(c)(3), a POTW must maintain an operating record of the hazardous waste received, and must submit a biennial report (either to EPA or an authorized State) describing the nature and amount of the hazardous waste received in the preceding year. This information may be helpful in completing step 2.

Subsequent steps in this strategy require detailed information about a POTW's hazardous waste management activities. Therefore, I encourage you to obtain as much information as possible about such practices during step 2. At a minimum, you should identify:

- the name and classification number of the hazardous waste;
- the date and amount of each hazardous waste shipment to the POTW, and whether the facility continues to receive hazardous waste; and
- a general description of the POTW treatment processes (including a flow diagram, the point where hazardous waste is introduced, and the construction materials used for each treatment process).\*

Before proceeding to step 3, you should be sure that the waste received by the POTW was hazardous.

Step three:

Step 3 requires a determination of whether a POTW was covered by a RCRA permit-by-rule (PBR) when the POTW received hazardous waste. Usually, this step will require only a determination that

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\* This information may be necessary to evaluate whether one or more treatment units at a POTW qualify for the "wastewater treatment unit" exclusion under 40 CFR §270.1(c)(2)(v). In order to qualify for this exclusion from RCRA, a unit must satisfy the definition of a "tank" under 40 CFR §260.10. The applicability of this exclusion should be evaluated when determining whether a POTW must obtain a permit-by-rule. For more information about the exclusion, please contact Paul Connor of the Permits Division at FTS-475-7718.

the POTW had a RCRA ID number before it began receiving hazardous waste. Applications for RCRA ID numbers are submitted either to RCRA authorized States or to EPA Regional offices.

If the POTW was not covered by a RCRA PBR at any time during the receipt of hazardous waste, then enforcement alternatives must be considered. Additional guidance on appropriate enforcement actions will be developed and distributed by the Enforcement Division after further information is obtained on these POTWs.

Step four:

If a POTW is covered by a RCRA PBR, the facility may legally receive hazardous waste until its NPDES permit expires. Usually the RIDER permit will be issued concurrently with the NPDES permit, so step 4 involves identifying the date upon which the NPDES permit expires. (If a POTW does not have a PBR and intends to receive hazardous waste in the future, the facility does not need to wait for re-issuance of its NPDES permit to apply for a PBR.)

Step five:

Step 5 is optional and is included in the strategy for those POTWs that wish to demonstrate that they no longer treat, store, or dispose of hazardous waste and, therefore, do not need a permit-by-rule. This option requires a POTW to make a site-specific demonstration that the facility no longer treats, stores or disposes of hazardous waste. (This subject is more fully described in Section 3.2.7.1 of our "Guidance for Implementing RCRA Permit-by-Rule Requirements at POTWs" that I mailed to you on July 21, 1987.) So long as hazardous waste remains at the facility, it will be difficult for a POTW to make this demonstration. However, some POTWs may prefer this option over the requirements of corrective action under §3004(u) of RCRA. If the POTW is recalcitrant in pursuing this option, enforcement action should be taken. By the end of step 5, you should have completed your follow-up efforts for all POTWs except those facilities that wish to obtain a RCRA PBR.

Step six:

Step 6 applies to the relatively small number of POTWs that received or are receiving hazardous waste, that have a PBR, and that need a RIDER permit. These POTWs will be issued a RIDER permit, (and therefore be subject to corrective action) concurrently with reissuance of their NPDES permit. A sample RIDER permit and the procedures for issuing RIDER permits are more fully described in OWEP's Guidance for Implementing RCRA Permit-By-Rule Requirements at POTWs.

There are limited contract funds available in FY88 for technical assistance in implementing RCRA at POTWs. These funds are available through our contract with SAIC. For more information about the availability of these funds, please contact Paul Connor at FTS-475-7718.

In summary, we have made substantial progress in conducting the RCRA surveys at POTWs and I look forward to continued progress on this initiative. For more information about the applicability of RCRA to POTWs, please have your staff contact Paul Connor of the Permits Division at FTS-475-7718. Questions and comments on the enforcement portions of the strategy should be referred to Richard Kinch at FTS-475-8319.

Attachments

cc: Permits Branch Chiefs, Regions I-X  
RCRA Coordinators, Regions I-X

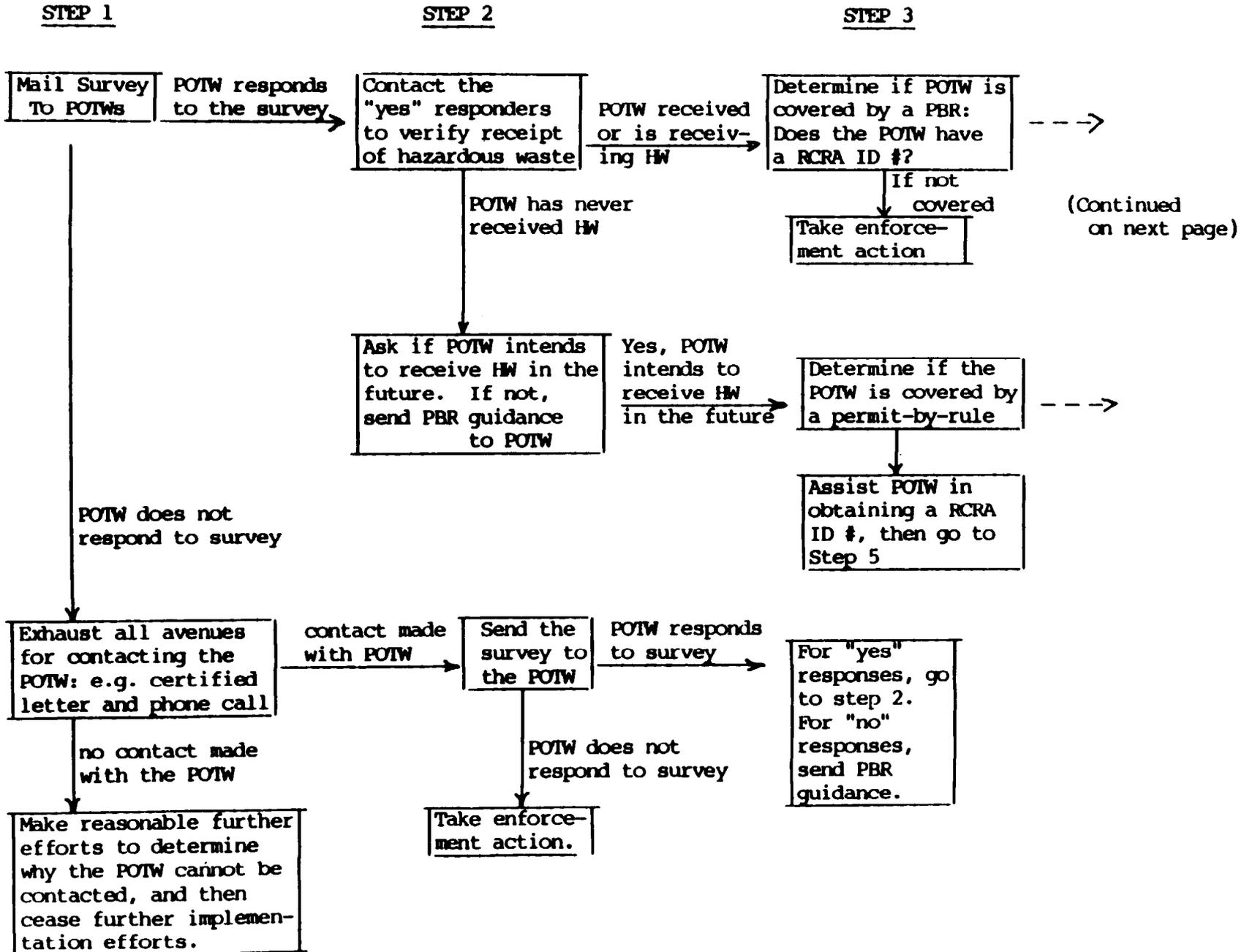
REGIONAL SURVEY OF POTWs RECEIVING HAZARDOUS WASTES  
(August 31, 1987)

	PCS POTW SUMMARY 4/10/87	No. of POTWs Sent Ltrs.	Number Responding	Response Rate	POTWs Accepting H Ws	- COMMENTS -
Region I	majors 317 minors 231 Total- 548	No Info.	No Info.	96%	7	Sent three letters to major non responders; is planning phone calls to the 20 POTWs (both major and minor) that have not responded; has not begun follow up on "yes" responders.
Region II	majors 428 minors 454 Total- 882	928	760	82%	0	Sent a second letter to 194 non responders and received 119 responses.
Region III	majors 375 minors 1131 Total- 1506	1770	322 708	84% 51%	3	Plans to send certified letter to remaining non responders.
Region IV	majors 669 minors 1768 Total- 3857	2291	2054	90%	4	Sent certified letters to non responders; will refer remaining non responders to enforcement; telephoned "yes" responses to weed out incorrect reporting.
Region V	majors 656 minors 3201 Total- 3857	3709	3227	87% (100% for majors)	5	Plans follow up letters and phone calls to 72 major non responders; has telephoned the "yes" responders.
Region VI	majors 456 minors 1758 Total- 2214	No Info.	No Info.	91%	6	2 rounds of letters plus telephone survey of all major non responders; sent first round of letters to 500 POTWs that were not in PCS; has not begun follow up for "yes" responses.
Region VII	majors 226 minors 1923 Total- 2149	230 -majors 1679 -minors	230 1657	100% 97%	1	Telephoned major non responders and sent a second letter to minor non responders, the 1 "yes" response has a RCRA ID number and may be covered by a RCRA permit by rule.
Region VIII	majors 189 minors 842 Total- 1031	1100	1094	99%	0	Sent a fourth letter to non responders;
Region IX	majors 197 minors 146 Total- 343	750	-	97%	0	Sent second letter to 29 non responders.
Region X	majors 125 minors 458 Total- 583	650	-	100%	0	Sent 2 rounds of letters with follow up phone call.

TOTAL POTWs

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STRATEGY FOR IMPLEMENTING RCRA PERMIT BY RULE  
REQUIREMENTS AT POTWS



(Continued on next page)

STEP 4

STEP 5

STEP 6

If the POTW received or is receiving HW and is covered by a PBR

Determine when the RIDER permit is issued (same as NPDES permit expiration date)

Determine if POTW wishes to "opt out" of RCRA: explain options of removing and delisting

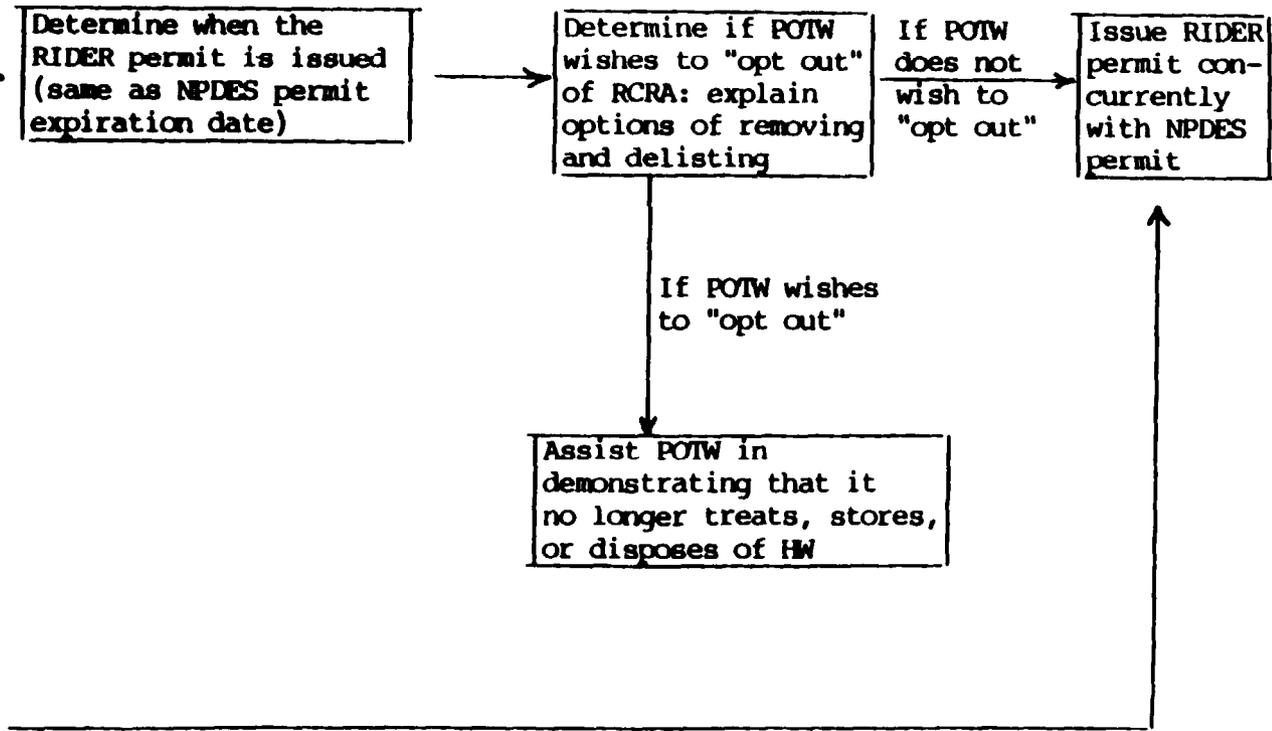
If POTW does not wish to "opt out"

Issue RIDER permit concurrently with NPDES permit

If POTW wishes to "opt out"

Assist POTW in demonstrating that it no longer treats, stores, or disposes of HW

If the POTW intends to receive HW in the future and is covered by a PBR, GO TO STEP 6



ATTACHMENT 3

Answer the following questions and mail within thirty days to:

Name, Water Management Division Director  
Region \_\_\_\_\_  
Address \_\_\_\_\_

- (1) Have you received hazardous waste (as identified in 40 CFR Part 261) accompanied by a "Uniform Hazardous Waste Manifest" as shown in Attachment B?  
\_\_\_\_\_ YES, \_\_\_\_\_ NO

If you answered "yes," was or is this hazardous waste delivered \_\_\_\_\_ inside or \_\_\_\_\_ outside of the POTW property boundary?

- (2) Do you plan to receive hazardous waste (as identified in 40 CFR Part 261) accompanied by a "Uniform Hazardous Waste Manifest" as shown in Attachment B?  
\_\_\_\_\_ YES, \_\_\_\_\_ NO

If you answered "yes," will this hazardous waste be delivered \_\_\_\_\_ inside or \_\_\_\_\_ outside of the POTW property boundary?

- (3) Have you received hazardous waste (as identified in 40 CFR Part 261) by dedicated pipe where the waste does not mix with domestic sewage (i.e., sanitary waste) in the sewer system before reaching the POTW property boundary?  
\_\_\_\_\_ YES, \_\_\_\_\_ NO

- (4) Do you plan to receive hazardous waste (as identified in 40 CFR Part 261) by dedicated pipe where the waste does not mix with domestic sewage (i.e., sanitary waste) in the sewer system before reaching the POTW property boundary?  
\_\_\_\_\_ YES, \_\_\_\_\_ NO

**CERTIFICATION** - I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

\_\_\_\_\_  
Signature of principal  
executive officer, ranking  
elected official or  
authorized representative