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

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OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Ms. Jacqueline E. Schafer
Department of the Navy
The Assistant Secretary of the Navy
(Installations and Environment)
Washington, D.C. 20360-5000

Dear Jackie:

Thank you for your letter of April 4, 1991, regarding the sewage treatment plant at the Naval Surface Weapons Center in Dahlgren, Virginia. I recall that we also discussed this last December, and I am pleased at the cooperation between our staffs on this issue.

In an April 5 meeting, representatives of the Environmental Protection Agency (EPA) and the Navy discussed Resource Conservation and Recovery Act (RCRA) compliance issues as they relate to the Dahlgren plant. The major point of contention is that the Navy believes that the sludges generated in the Dahlgren plant do not meet the definition of EPA Hazardous Waste No. F006 because none of the treatment processes that occur causes sludges to be formed from electroplating wastewaters. For several reasons, EPA believes that these sludges do meet the definition of F006. This letter explains those reasons. However, EPA is also exploring alternative means of addressing the Navy's concerns. Those alternatives are outlined in the conclusion.

Scope of the F006 Listing

The Navy is incorrect in assuming that sludges formed from any treatment processes other than those described in studies by EPA's Office of Water are outside the scope of "wastewater treatment sludges from electroplating operations." The RCRA program is governed by the RCRA regulations, not by studies performed for purposes of the Clean Water Act (CWA). The RCRA regulations define "wastewater treatment sludges" to include sludges from any type of treatment (e.g., chemical, biological, or simple settling) to which a wastewater is subjected. The sludges generated at Dahlgren meet the RCRA listing description and the definition of wastewater treatment sludges. Thus, they are regulated F006 wastes.

Additionally, we understand that for some time the electroplating wastewaters were not treated before their discharge to the wastewater treatment plant. Therefore, the portion of the hazardous constituents that would typically be removed during pretreatment (and that would be present in the pretreatment sludge) were carried through to the Dahlgren plant and would be present in the sludge.

Publicly Owned vs. Privately Owned Treatment Works

The regulatory status of wastes from publicly owned treatment works (POTWs) versus other treatment plants (such as privately owned treatment works) is a complex issue due to the nature of the RCRA definition of what constitutes a "solid waste" and, therefore, can be a hazardous waste.

EPA's regulations reflect a statutory exclusion from the definition of "solid waste" for domestic sewage. Based upon Section 1004(27) of RCRA, our current regulations specify that mixtures of domestic sewage and other wastes that pass through a sewer to a POTW are not solid wastes. (As EPA explained in the preamble to its original 1980 RCRA regulations, hazardous wastes discharged to POTWs are subject to CWA pretreatment requirements. Congress exempted domestic sewage mixtures to avoid duplicate regulation under the CWA and RCRA.) Upon exiting a POTW, sludges are a solid waste and, like all other non-listed solid wastes, are hazardous if they exhibit a characteristic of a hazardous waste.

The exception for municipal POTWs treating domestic sewage and other wastes does not extend to private or other non-municipal treatment works, because they are not subject to the same CWA requirements and, thus, need to be regulated under RCRA. Therefore, a mixture of sewage with other wastes en route to a non-municipal treatment works does not cease to be a solid waste. The waste's identity relevant to hazardous waste listings continues throughout the treatment works.

The Dahlgren plant is a privately--not a publicly--owned treatment works. As a result, any sludges generated in the plant and entering the drying beds and the polishing ponds carry with them any waste listings (in this case, F006).

The Laboratory Exclusion

The question also has arisen whether the "laboratory waste exclusion" of 40 CFR 261.3(a)(2)(iv)(E) is applicable to the electroplating wastewaters. This exclusion applies to laboratories (usually of a research or academic character)

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generating small amounts of listed hazardous wastes that are discharged to a treatment system that also receives large volumes of nonhazardous wastewaters. This exclusion is not appropriate for the waste streams at Dahlgren for several reasons.

First, the exclusion applies to the discharge of listed toxic wastes, such as F006, from a laboratory. However, the wastes from the plating shop are not listed (i.e., they are not F006 wastes).

Second, the exclusion applies only to laboratories. While the preamble to the exclusion refers both to quality control and to research and development laboratories, the exclusion is based on the disposal of small volumes of diverse, diluted wastes as a result of rinsing hazardous chemicals or samples of hazardous waste down laboratory drains with large quantities of water. While EPA recognizes that the general function of the entire Dahlgren facility may be research and development--especially as compared to weapons production--the operations conducted at the electroplating shop, and the character of the wastewater discharged from it (primarily rinsewater with small amounts of listed waste), are not the diverse type of dilute wastewaters characteristic of a research and development laboratory. In addition, the electroplating shop itself is not a research and development laboratory. Hence, we are compelled to conclude that the electroplating wastewater cannot qualify as being from the "laboratory" operations provided for in the exclusion.

Conclusions

According to our evaluation, the sludges generated from the WWTP meet the definition of EPA Hazardous Waste No. F006. This includes the sludges that have been accumulated in the land-based units (i.e., polishing lagoons, drying beds, and land treatment unit) as well as those generated in the wastewater treatment units.

Dahlgren does have the option to petition to delist the F006 sludges. We have met several times with Dahlgren representatives to discuss delisting requirements. We would be happy to meet again to discuss any remaining questions about delisting.

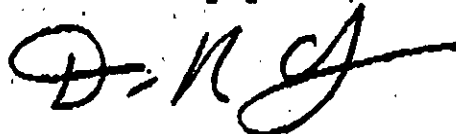
As a further note, in our April 5 meeting, we discussed the possibility of an EPA action to reinterpret the definition of "wastewater treatment sludge" in the context of the F006 listing. While still very tentative, we are considering a distinction between "wastewater" and "treated effluent." That is, if the wastewater stream were treated to the point that it met a specified standard (e.g., the Office of Water's Effluent Limitation Guidelines), any subsequently formed sludge would

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not be defined as F006. Generators of sludges derived from wastewater that had not been pretreated would not be affected by this type of change, however.

We look forward to the assistance promised by the meeting participants during our consideration of this potential avenue for refining the scope of the F006 listing. We may also be requesting various data from the Navy. As indicated at the meeting, all such cooperation and assistance will be greatly appreciated.

Sincerely yours,



Don R. Clay
Assistant Administrator