



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

Office of Water

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We have had discussions with the National Association of Clean Water Agencies (NACWA) and some of their members regarding the applicability of the 40 C.F.R. 503 *Standards for the Use or Disposal of Sewage Sludge* to various scenarios involving the recovery of useful resources from wastewater.

As a general matter, EPA considers products extracted from sewage sludge that are not land applied, land disposed, or incinerated, but instead sold into a commodity market, outside the scope of Part 503. For example, a company could potentially extract precious metals or rare earth elements from wastewater. Such products would not be subject to Part 503 if they were resold as commodities instead of “applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator.” This is consistent with EPA’s existing guidance on Part 503, which makes clear that Part 503 “establishes requirements for the final use or disposal of sewage sludge [biosolids] when biosolids are: applied to land . . . placed on a surface disposal site . . . or fired in a biosolids incinerator.” See [A Plain English Guide to the EPA Part 503 Biosolids Rule](#), at p. 6 (September 1994).

The situation becomes more complicated when the product is intended to be land applied, surface disposed, or incinerated as contemplated by Part 503. Part 503 regulates “sewage sludge” and it defines the term to include “material derived from sewage sludge.” But EPA recognizes that some products originating from sewage sludge could conceivably be so heavily refined or processed that a significant transformation or change in quality has occurred to the extent that it would be unreasonable to describe those products as “material derived from sewage sludge.” Because such products would not meet the definition of “sewage sludge,” they would be outside the scope of Part 503. EPA cannot, at this time, offer any general statements about what types of products may not be “derived from sewage sludge.” But EPA is willing to consider on an individual case-by-case basis whether a particular product recovered from sewage sludge is beyond the scope of Part 503.

If NACWA or its member facilities wish to inquire of EPA its views about whether a particular product is “derived from sewage sludge,” EPA would consider all of the following information to be helpful:

- In order for EPA to determine whether the product will be protective of public health and the environment, evidence demonstrating that the product meets the pollutant concentrations for high quality sewage sludge in Table 3 of 40 CFR 503.13, the more stringent Class A pathogen requirements, and one of the first eight vector attraction requirements. These standards are known collectively as the exceptional quality or Class A EQ requirements;
- Data and information indicating that the process used to generate the product will continue to ensure that the product meets the Class A EQ requirements over time. For example, the requestor may include a proposed schedule for the voluntary submission to EPA of data and evidence concerning the composition of the product. Or the requestor may include other relevant information about the requestor's quality assurance and quality control procedures; and
- A reasonable rationale for believing that the product is outside the scope of what EPA intended to regulate under Part 503 when it adopted the regulations. For example, are there indications in the legislative history of the Clean Water Act, the administrative record of the Part 503 regulations, or prior EPA guidance and statements that the regulations were not intended to apply to the product? Or do the chemical purity, commercial applications, and/or the existence of other applicable state, federal, or international regulations suggest that regulation under Part 503 would be redundant?

Please note that this response is not a rule or final agency action; nor does it establish any binding legal obligations on EPA or the regulated community. EPA may adjust its views as changing circumstances warrant or as otherwise appropriate. Products not regulated under Part 503, of course, remain subject to any other applicable federal regulations.

If you have additional questions on this matter, or wish to make an inquiry of and submit information for a specific product, please contact Betsy Southerland by email (Southerland.Elizabeth@epa.gov) or by phone (202-566-0328).

Regards,



Ellen Gilinsky, Ph.D.
Associate Deputy Assistant Administrator