

## SUBCHAPTER O—SEWAGE SLUDGE

### PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

#### Subpart A—Purpose, Scope and General Program Requirements

Sec.

- 501.1 Purpose and scope.
- 501.2 Definitions.
- 501.3 Coordination with other programs.

#### Subpart B—Development and Submission of State Programs

- 501.11 Elements of a sludge management program submission.
- 501.12 Program description.
- 501.13 Attorney General's statement.
- 501.14 Memorandum of Agreement with the Regional Administrator.
- 501.15 Requirements for permitting.
- 501.16 Requirements for compliance evaluation programs.
- 501.17 Requirements for enforcement authority.
- 501.18 Prohibition.
- 501.19 Sharing of information.
- 501.20 Receipt and use of federal information.
- 501.21 Program reporting to EPA.
- 501.22 Requirements for eligibility of Indian Tribes.
- 501.23 Request by an Indian Tribe for a determination of eligibility.
- 501.24 Procedures for processing an Indian Tribe's application.
- 501.25 Provisions for Tribal criminal enforcement authority.

#### Subpart C—Program Approval, Revision and Withdrawal

- 501.31 Review and approval procedures.
- 501.32 Procedures for revision of State programs.
- 501.33 Criteria for withdrawal of State programs.
- 501.34 Procedures for withdrawal of State programs.

AUTHORITY: 33 U.S.C. 1251 *et seq.*

SOURCE: 54 FR 18786, May 2, 1989, unless otherwise noted.

#### Subpart A—Purpose, Scope and General Program Requirements

##### § 501.1 Purpose and scope.

(a) These regulations are promulgated under the authority of sections

101(e), 405(f), 501(a), and 518(e) of the CWA, and implement the requirements of those sections.

(b) This part specifies the procedures EPA will follow in approving, revising, and withdrawing State sludge management programs under section 405(f), and the requirements State programs must meet to be approved by the Administrator under section 405(f) of CWA. Sludge Management Program submissions may be developed and implemented under any existing or new State authority or authorities as long as they meet the requirements of this part.

(c) Any complete State Sludge Management Program submitted for approval under this part shall have the following as a minimum:

(1) The authority to require compliance by any person who uses or disposes of sewage sludge with standards for sludge use or disposal issued under section 405(d) of the CWA, including compliance by federal facilities;

(2) The authority to issue permits that apply, and ensure compliance with, the applicable requirements of section 405 of the Clean Water Act to any POTW or other treatment works treating domestic sewage, and procedures for issuance of such permits;

(3) Provisions for regulating the use or disposal of sewage sludge by non-permittees;

(4) The authority to take actions to protect public health and the environment from any adverse effects that may occur from toxic pollutants in sewage sludge; and

(5) The authority to abate violations of the State sludge program, including civil and criminal penalties and other ways and means of enforcement. Indian Tribes can satisfy criminal enforcement authority requirements under § 501.25.

(d) In addition, any complete State Sludge Management Program submitted for approval under this part must have authority to regulate all sewage sludge management activities subject to 40 CFR part 503, unless the State is applying for partial sludge program approval in accordance with

## Environmental Protection Agency

## § 501.1

paragraph (m) of this section. The State sludge management program must include authority to regulate all Federal facilities in the State. Sludge management activities must include as applicable:

- (1) Land application;
- (2) Landfilling in a Municipal Solid Waste Landfill regulated under 40 CFR part 258;
- (3) Incineration;
- (4) Surface disposal; and
- (5) Any other sludge use or disposal practices that may subsequently be regulated by 40 CFR part 503.

(e) The Administrator will approve State programs which conform to the applicable requirements of this part.

(f)(1) Upon approval of a State program, the Administrator will suspend the issuance of federal permits for those activities subject to the approved State program. After program approval EPA will retain jurisdiction over any permits (including general permits) which it has issued unless arrangements have been made with the State in the Memorandum of Agreement for the State to assume responsibility for these permits. Retention of jurisdiction will include the processing of any permit appeals, modification requests, or variance requests; the conduct of inspections, and the receipt and review of self-monitoring reports. If any permit appeal, modification request, or variance request is not finally resolved when the federally issued permit expires, EPA may, with the consent of the State, retain jurisdiction until the matter is resolved.

(2) The procedures outlined in the preceding paragraph (f)(1) of this section for the suspension of permitting authority and transfer of existing permits will also apply when EPA approves an Indian Tribe's application to operate a State sludge management program and a State was the authorized permitting authority under § 501.13 for sludge management activities within the scope of the newly approved program. The authorized State will retain jurisdiction over its existing permits as described in paragraph (f)(1) of this section absent a different arrangement stated in the Memorandum of Agreement executed between EPA and the Tribe.

(g) Notwithstanding approval of a State sludge program, EPA has the authority to take enforcement actions for any violations of this part or sections 405 or 309 of the CWA.

(h) Any State program approved by the Administrator shall at all times be conducted in accordance with the requirements of this part.

(i) Nothing in this part precludes a State or political subdivision thereof, or interstate agency, from adopting or enforcing requirements established by State or local law that are more stringent or more extensive than those required in this part or in any other federal statute or regulation.

(j) Nothing in this part precludes a State from operating a program with a greater scope of coverage than that required under this part. If an approved State program has greater scope of coverage than required by federal law, the additional coverage is not part of the federally approved program.

(k) Sections 106 (a) and (d) of the Marine Protection, Research, and Sanctuaries Act (MPRSA), 33 U.S.C. 1416, generally preclude States from regulating or issuing permits for ocean dumping. Nothing in this regulation is intended to confer on the States the authority to engage in the regulation or permitting of ocean dumping in contravention of the provisions of sections 106 (a) and (d) of the MPRSA.

(l) The Administrator may allow a State sewage sludge management agency to assign portions of its program responsibilities to local agencies, provided that:

(1) No assignment is made to a local agency which owns or operates a POTW or other facility that treats or disposes of sewage sludge;

(2) The program description required by § 501.12 of this part identifies any assignment of program responsibilities to the local agency(ies), describes the capabilities of the local agency to carry out assigned functions, and includes copies of any documents which execute the assignment and an agreement between the State sewage sludge management agency and the local agency(ies) defining their respective program responsibilities;

(3) The Attorney General's Statement required by § 501.13 of this part

## § 501.2

## 40 CFR Ch. I (7-1-04 Edition)

states that any assignment of program responsibilities to the local agency(ies) described in the program description is valid under State law and that State and local law do not otherwise prohibit the local agency(ies) from executing the program responsibilities assigned by the State sewage sludge management agency;

(4) The Memorandum of Agreement (MOA) required by § 501.14 of this part includes adequate provisions for the State sewage sludge management agency's oversight of the program responsibilities assigned to the local agency(ies);

(5) The State sewage sludge management agency retains all responsibility for the program reporting required by § 501.21 of this part and for all other activities required by this part or by the MOA related to EPA oversight of the State's approved program; and

(6) The State sewage sludge management agency retains full authority and ultimate responsibility for administering all aspects of the State's approved program in accordance with the requirements of this part and the MOA.

(m) A State whose sludge management program has not been approved under this part may submit to the Regional Administrator an application for approval of a partial sewage sludge program. The following are the requirements for approval of a partial program:

(1) A partial program submission must constitute a complete management program covering one or more categories of sewage sludge use or disposal. The program must also apply to anyone engaged in the sewage sludge use or disposal practice that is the subject of the partial program. A complete management program is one that provides for the issuance of permits, the monitoring of compliance and, in the event of violations, possible enforcement action.

(2) The partial program submission must also address the following requirements:

(i) The Attorney General's Statement, in addition to the information required by § 501.13, must clearly explain the jurisdiction of the administering agency or department;

(ii) The program description, in addition to the information required by § 501.12, must explain how the program will operate, including which use and disposal practice(s) the State will cover. The program description must also explain the relationship and coordination between the proposed partial sewage sludge program and that part of the program for which EPA will remain the permitting authority, including a discussion of the division of permitting, enforcement, and compliance monitoring responsibilities between the State and EPA; and

(iii) The Memorandum of Agreement between EPA and the State, in addition to the information required by § 501.14, must set out the responsibilities of EPA and the State in administering the partial program, including specific provisions for transfer of information and determination of which users or disposers of sewage sludge are included in the partial program.

[54 FR 18786, May 2, 1989, as amended at 58 FR 67983, Dec. 22, 1993; 63 FR 45123, Aug. 24, 1998]

### § 501.2 Definitions.

*Administrator* means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

*Approved State program* means a State program which has received EPA approval under this part.

*Class I sludge management facility* means any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including such POTWs located in a State that has elected to assume local program responsibilities pursuant to 40 CFR 403.10(e)) and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the Regional Administrator in conjunction with the State Program Director because of the potential for its sludge use or disposal practices to adversely affect public health or the environment.

*CWA* means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L.