



**MASSACHUSETTS WATER RESOURCES AUTHORITY**

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Mr. Kevin McSweeney  
Associate Director, Waste Policy  
U.S.E.P.A.  
JFK Federal Building  
1 Congress St.  
Boston, MA 02203

Ralph Child, General Counsel  
Massachusetts Department of Environmental Protection  
1 Winter St.  
Boston, MA 02108

Re: Hazardous waste at metal plating facilities

Dear Messrs. McSweeney and Child:

I am writing as a follow-up to discussions between MWRA and Mark Mahoney of EPA concerning hazardous waste management at metal plating facilities. We have corresponded and met with Mr. Mahoney concerning EPA's Common Sense Initiative for Metal Platers, and in the course of those discussions have raised MWRA's concerns with the handling of concentrated plating baths, wastewater treatment sludge, and other hazardous wastes at metal plating facilities. As I wrote to Mr. Mahoney on June 19, 1998, MWRA is concerned that if hazardous waste is improperly handled, it may be released to the sewer at some facilities. MWRA therefore requests clarification from EPA and DEP of their requirements concerning certain practices that we have observed at various metal plating facilities in MWRA's District, as discussed below, and your assistance in communicating these requirements to the metal platers and assuring compliance.

In particular, MWRA is concerned with manual transfer of process wastes to wastewater treatment systems, and long term storage of sludge removed from wastewater treatment systems. MWRA has endeavored to assure that such practices do not threaten to cause violations of MWRA's discharge regulations, but we would also like to be sure that we can identify potential violations of DEP and EPA requirements.



1. Delivery of wastewater (usually concentrated spent plating baths) to treatment systems by means other than direct piping

MWRA has found several facilities that deliver waste from industrial processes to their wastewater treatment systems by means other than direct piping. The most common methods are hand-carrying waste in buckets, or collecting it containers and transferring it on wheeled dollies. At least one facility transports waste in this manner between buildings and across a parking lot. In most cases, the wastes involved are spent plating baths or acids. MWRA believes that these metal-bearing wastes and acids are likely to be hazardous wastes, either listed (e.g., F007 - F009) or characteristic. We need clarification as to which requirements do apply to these wastes, so that we can be sure that our permit requirements are consistent, and so that we can identify instances of noncompliance and inform your agencies.

Our understanding is that EPA and DEP do not prohibit manual delivery to wastewater treatment systems, but some RCRA requirements may apply to these wastes. EPA's regulations, at 40 C.F.R. §§ 264.1(g)(5) & (6), and 265.1(c)(9) & (10), exempt "totally enclosed treatment facilities," and "wastewater treatment units" (defined in 40 C.F.R. § 260.10) from Parts 264 and 265 (governing treatment, storage and disposal facilities), but other requirements, particularly the generator requirements in Part 262, may apply to metal platers' manually transported wastes. For example, are wastes destined for wastewater treatment units subject to the accumulation provisions of 40 CFR § 262.34, so that they are to be considered in determining the generator's eligibility for small quantity status under § 262.34? MWRA would like to identify specific applicable EPA provisions that metal platers should be aware of.

DEP, at 310 CMR §§ 30.501(2)(b) & (d) and 30.801(4), also exempts "industrial wastewater treatment units," from the management and permitting standards for hazardous waste facilities, but 310 CMR § 30.605 imposes some requirements on "wastewater treatment units for the treatment of hazardous waste at the site of generation of the waste." 310 CMR § 30.010 defines an "industrial wastewater treatment unit" as a unit which serves a discharge subject to regulation under § 307(b) (pretreatment) or § 402 (NPDES) of the Clean Water Act, is used for treatment or storage prior to treatment, and is a "tank." MWRA would like to confirm its understanding that § 30.605 applies to all wastewater treatment units that receive hazardous waste, as well as recycled waste that would be hazardous if it were not recycled (310 CMR § 30.206(3), including units that discharge subject to MWRA permits.<sup>1</sup> In addition, the terms of § 30.605 present several questions.

First, we are not sure of the scope and import of the exclusion in § 30.605(1) of "treatment which is an integral part of the manufacturing process," as defined in 310 CMR §

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<sup>1</sup> Section 30.501(2)(d) states that "Hazardous waste activities at such facilities are regulated at 314 CMR 8.00." Section 8.05 requires that facilities comply with 310 CMR § 30.605, and to the operations manual requirement of 314 CMR § 12.04(1). MWRA cannot determine whether § 8.05 applies to dischargers to the sewer.

30.010. The definition requires a connection “via pipes or the equivalent from an industrial production process (i.e., a process which produces a product . . .)” and requires that the system be “totally enclosed,” as defined therein. The definition of “totally enclosed” is comparable to EPA’s definition of a “totally enclosed treatment facility” in 40 CFR § 260.10. DEP’s definition requires if the treatment unit discharges effluent to the sewer, it is “deemed totally enclosed” only if the discharges are in compliance with all applicable laws and permits. It is not clear to us what the consequence is of excluding these systems from § 30.605: apparently the result is that no hazardous waste requirements apply to a system that is connected to an industrial process “via pipes or the equivalent.” However, MWRA does not know what DEP considers “the equivalent” of pipes. Hand-carrying, open troughs, and other conveyances to treatment systems, could all arguably be “the equivalent” of pipes, and thus excluded from § 30.605. Moreover, a facility that might otherwise be “deemed totally enclosed” apparently should lose that status if it does not comply with its MWRA permit. Some of the facilities that we know to be using hand-carrying have long histories of MWRA violations.

Second, § 30.605(1) provides that the section does not apply to wastewater treatment units that receive hazardous waste generated “off the site where the . . . unit is located.” As noted above, at least one metal plater with an MWRA permit transports waste, which we believe to be hazardous waste, between buildings. MWRA is not sure that it knows how DEP and EPA would address this practice. According to the definition in 310 CMR § 30.010, a “site” may include different buildings on contiguous properties, so apparently this facility is not treating “offsite” wastes. However, we would like to be able to clarify the circumstances that would constitute “offsite.”

Third, there are many requirements in § 30.605 that are apparently being ignored at many facilities. For example, subsection (2) incorporates management standards from 310 CMR § 30.500, and subsection (4)(a) calls for the operator to submit a waste analysis plan prepared in compliance with 310 CMR §§ 30.513 and 30.605(2)(b) and (4)(b) to DEP and to the POTW. MWRA has not been receiving waste analysis plans prepared in compliance with § 310 CMR § 30.513. MWRA has sought to enforce EPA’s requirements in 40 CFR § 403.12(p)(1), which requires that Industrial Users of POTWs notify the POTW and EPA’s Waste Management Division Director, in writing of discharges of hazardous wastes, or substances that would be hazardous wastes but for their discharge to the sewer. However, such notification does not appear to be equivalent to the waste analysis plan required by §§ 30.513 and 30.605(2)(b), which are presumably equivalent to the waste analysis requirements of 40 CFR § 264.13. MWRA would like clarification as to what is required to comply with 310 CMR § 30.513, and what MWRA should be receiving.

## 2. Long term storage

310 CMR § 30.605(1)(a)(2) provides that hazardous waste management standards of 310 CMR §§ 30.500 through 30.999 do not apply to “wastewater treatment units for the accumulation or storage, at the site of generation, of wastewater treatment sludge which is hazardous waste, prior to reintroduction of such sludge back into the wastewater treatment

process.” (Emphasis added). MWRA has found facilities accumulating solids in tanks connected to treatment systems that are not destined for reintroduction to the treatment system. In some cases, the accumulation has apparently been considered part of the treatment system rather than storage subject to hazardous waste requirements. As a result, in at least one case, the facility kept no records and continued accumulating for years.

### 3. Issues to be resolved

MWRA has found that some metal platers are unaware of the potential scope of these requirements affecting manually transported wastes, treatment units, and storage tanks. MWRA would like to work with DEP and EPA to determine whether the practices observed by MWRA are in fact permissible (e.g., manually transporting process waste between buildings), to inform the metal platers of applicable hazardous waste requirements, and to alert DEP and EPA to potential violations.

To summarize, MWRA would like to clarify the following:

- i. The hazardous waste management requirements, in 310 CMR § 30.605(2)-(4) and elsewhere, that apply to metal platers that deliver process waste to wastewater treatment units by means other than direct piping; in particular:
  - (1) What generator requirements in Part 262, and 310 CMR § 30.340-.350, or other DEP requirements, should these facilities be aware of and comply with? and
  - (2) What is required to comply with 310 CMR § 30.513, and what MWRA should be receiving under § 30.605(4)?
- ii. The circumstances that would exempt a facility from such requirements, in particular, what is a “pipe or equivalent,” sufficient to render a treatment process “an integral part of the manufacturing process,” exempt under § 30.605(1);
- iii. When does sludge accumulation in a tank become long-term storage of hazardous waste (assuming the sludge is F006 listed hazardous waste); and
- iv. How would DEP and EPA like to be informed of apparent violations? MWRA would be willing to coordinate with DEP in inspecting and informing facilities of applicable requirements.

I look forward to working with you to clarify these issues. Please feel free to contact Charles Bering on my staff, at (617) 241-2309, to discuss this further.

Sincerely yours,



Kevin McManus, Director  
Toxic Reduction and Control Dept.

cc: Mark Mahoney, EPA  
Jeffrey Fowley, EPA  
Joe Canzano, EPA