



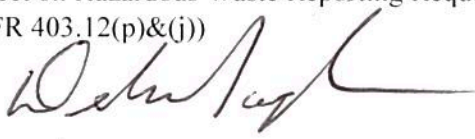
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460


NOV 3 2016

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Pretreatment Program Factsheet on Hazardous Waste Reporting Requirements for Industrial Users (under 40 CFR 403.12(p)&(j))

FROM: Deborah G. Nagle, Director
Water Permits Division
Office of Wastewater Management 

Edward Messina, Director
Monitoring Assistance and Media Programs Division
Office of Compliance 

TO: NPDES Branch Chiefs, Regions 1-10
NPDES Enforcement Branch Chiefs, Regions 1-10

The Office of Water and the Office of Enforcement and Compliance Assurance have created a factsheet that can be used by Publicly Owned Treatment Works to inform their Industrial Users of hazardous waste reporting requirements in accordance with the pretreatment regulations set forth in 40 CFR 403.

To strengthen stakeholder knowledge and accountability on these issues, the Office of Wastewater Management is planning to launch a series of trainings and webinars on toxic and hazardous chemical discharges to POTWs. This series will be available to EPA Regions, States and Municipalities. We highly recommend that managers encourage their staff to participate in these trainings. More details are forthcoming.

CONTACT INFORMATION

If you have any questions regarding this factsheet, please contact Jan Pickrel, National Pretreatment Expert at (202) 564-7904 or pickrel.jan@epa.gov.

Attachment: Pretreatment Program Factsheet on Hazardous Waste Reporting Requirements for Industrial Users (under 40 CFR 403.12(p)&(j))

cc: Andrew Sawyers, Director, Office of Wastewater Management, OW
Water Division Directors, Regions 1-10
Enforcement Division Directors, Regions 1-10
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Hazardous Waste Reporting Requirements
for Industrial Users under 40 CFR 403.12(p)&(j)

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EPA's Clean Water Act (CWA) Pretreatment Program regulations require that Industrial Users (IUs) report any substance discharged to the Publicly Owned Treatment Works (POTW) which, if otherwise disposed of, would be considered a Resource Conservation and Recovery Act (RCRA) hazardous waste. Under RCRA's Domestic Sewage Exclusion (DSE), any mixture of domestic sewage and other wastes that passes through a sewer system to a POTW is not considered a hazardous waste for the purposes of RCRA. For this reason, reporting of these discharges are regulated under the CWA as follows:

- 40 CFR 403.12(p) requires a one-time report for each substance discharged to a POTW that, if otherwise disposed of, would be considered RCRA hazardous waste.
- 40 CFR 403.12(j) requires a report in advance of any substantial change¹ in volume or character of any IU discharge.

Who Must Notify:

All IUs that discharge a substance that, if otherwise disposed of, would be characteristic or listed wastes under 40 CFR Part 261 and meet the following criteria:

- Total waste discharged is greater than or equal to 15 kg/month;
or
- Waste discharged is acute hazardous waste.

Notification Must be Sent To:

1. Local Sewerage Authority
(i.e., POTW)
2. EPA Regional Waste Management
Director
3. State Hazardous Waste Authority

What is a "Hazardous Waste" under RCRA?

A solid waste (as defined in 40 CFR 261.2) is a hazardous waste if it is not excluded from the regulations in 40 CFR 261.4 and if it exhibits any of the characteristics of a hazardous waste in 40 CFR part 261 subpart C or if it is listed in 40 CFR part 261 subpart D.

- **Characteristic wastes:** Wastes are classified as characteristic hazardous waste when they exhibit one or more of the hazardous characteristics identified in 40 CFR part 261 subpart C (40 CFR 261.20-261.24) (i.e., they are ignitable, corrosive, reactive, or toxic). Note that many of these characteristic hazardous wastes are prohibited from discharge to POTWs in accordance with the specific prohibitions in 40 CFR 403.5(b). Mixtures of characteristic wastes and non-hazardous wastes are hazardous wastes only if the mixture exhibits a characteristic of a hazardous waste (40 CFR 261.3(b)(3)) (i.e., when mixed, it is still ignitable, corrosive, reactive or toxic). However, note that dilution is prohibited as a substitute for treatment in both 40 CFR 403.6(d) and 40 CFR 268.3.
- **Listed wastes:** Wastes are classified as listed hazardous if they have been specifically identified and listed by EPA as hazardous waste. There are three types of listed hazardous waste: hazardous wastes from non-specific sources (F-listed), hazardous waste from specific sources (K-listed), and discarded commercial chemical products, off-specification species, container residues and spill residues (P- or U-listed). Some listed hazardous wastes are considered acute hazardous waste, namely 6 of the F-listed hazardous wastes (F020-F023, F026, F027) and the entire P-list. If any listed wastes are mixed with non-hazardous waste, the entire wastestream is considered listed hazardous (40 CFR 261.3(a)(2)(iv)) and a notification must be submitted.

¹ Substantial change often occurs due to a deliberate or planned change to a user's facility or operations and is based on the magnitude of change to the industrial user's existing discharge. Generally, EPA considers a change of 20% or greater to be substantial.



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Waste Covered by the Notification:

- Any discharge to the POTW of ≥ 15 kg per calendar month of a RCRA non-acute hazardous waste.
- A discharge of any quantity of an acute hazardous waste, namely:
 - F020-F023, F026, and F027 under 40 CFR 261.31; and
 - Any P-listed hazardous waste listed under 40 CFR 261.33(e).

NOTE: Pollutants already reported under IU self-monitoring requirements are not subject to this notification requirement.

Notification Must Contain:

For hazardous wastes ≥ 15 kg/month or any quantity of acute, the one-time notification from an IU to a POTW must contain:

1. Name of the hazardous waste as set forth in 40 CFR Part 261.
2. EPA hazardous waste number (code).
3. Type of discharge to the sewer (continuous, batch, or other).
4. A certification that the IU has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

If the IU discharges > 100 kg of acute or non-acute hazardous waste per calendar month to the POTW, the notification must *also* contain the following items of information, to the extent such information is known and available:

5. An identification of the hazardous constituents² contained in the hazardous wastes.
6. An estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month in which the one-time report is made.
7. An estimation of the mass of constituents in the wastestream expected to be discharged during the 12 months following the notification.

When the Notification Must be Submitted:

- Notifications for existing dischargers (i.e., those in existence prior to August 23, 1990) were required to be submitted no later than February 23, 1991.
- IUs who commence discharging after August 23, 1990 must submit the notification no later than 180 days after the discharge of a hazardous waste.
- In the case of newly identified hazardous wastes, the IU must submit a notification within 90 days of the effective date of such regulations.
- The notification need be submitted only once for each hazardous waste discharged, except when there will be a substantial change in the volume or character of the hazardous waste discharged
- In the case of a substantial change in volume or character (a long-term, not an episodic change, generally because of a planned change to the facility or operations), another one-time report is required.
- The POTW may require additional reporting of these substances as it deems necessary.

² For F and K listed hazardous wastes refer to Appendix VII to Part 261 – Basis for Listing Hazardous Waste.

Frequently Asked Questions

1. *Does the notification I make or don't make in 403.12(p) authorize my discharge of hazardous waste to the POTW?*

No. Many POTWs have local or State prohibitions against the discharge to the POTW of certain wastes qualifying as hazardous. All potential dischargers are advised to contact the receiving POTW to verify whether or not the intended discharge is authorized.

2. *I already submit a periodic report to my POTW. Is this an additional report?*

Yes. This is a one-time notification that helps POTWs keep track of the overall number of IUs disposing hazardous wastes into their collection system.

3. *I already submit a notification under the Toxics Release Inventory (TRI) program. Is this an additional report?*

Yes. The TRI chemical list is a separate list of pollutants and reporting requirements are different.

4. *I'm a Very Small Quantity Generator (VSQG)³ under RCRA. Am I subject to these CWA reporting requirements in 40 CFR 403.12(p)?*

Maybe. Under RCRA, VSQGs generate ≤ 100 kg per month of hazardous waste and ≤ 1 kg of acute hazardous waste per month and are subject to very few of the RCRA Subtitle C hazardous waste regulations, provided that they comply with the conditions set forth in § 262.14(a). However, under the CWA, 403.12(p) does not explicitly exempt RCRA VSQGs from the one-time notification if they are discharging 15 or more kilograms of hazardous waste per month or any amount of acute hazardous waste. Note that state or local ordinances may be more stringent than federal requirements.

5. *Are dental or healthcare facilities subject to the reporting requirements in 40 CFR 403.12(p)?*

Maybe. According to EPA estimates, the vast majority of healthcare facilities are VSQGs (84%). Over 94% of dental offices are VSQGs, and 94% of continuing care retirement communities are VSQGs. Nevertheless, if a dental office or other healthcare facility discharges more than 15 kg hazardous waste per month or any amount of acute hazardous waste per month, they are still required to submit a one-time notification under the CWA.

6. *My hazardous waste is brought to the POTW by truck or rail. Do the reporting requirements in 40 CFR 403.12(p) apply to me?*

For RCRA hazardous waste brought to a POTW by truck or rail, the DSE does not apply and these wastes are fully regulated under RCRA. Therefore, the POTW would only be allowed to receive the hazardous waste if it has a RCRA permit or interim status as a treatment, storage or disposal facility (TSDF), or meets the conditions for a RCRA permit by rule for POTW. Reporting requirements under 40 CFR 403.12(p) only apply to industrial discharges to the POTW via the sewer collection system.

³ Very Small Quantity Generators (VSQGs) were previously known as Conditionally Exempt Small Quantity Generators (CESQGs).



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Model Notification Form

HAZARDOUS WASTE NOTIFICATION TO POTW

Company Name

City State Zip Code

Contact Person Title

Phone

Name of Publicly Owned Treatment Works

NPDES Permit #

Address

City State Zip Code

HAZARDOUS WASTE INFORMATION (use additional sheets if necessary)

Name of Waste:

EPA Hazardous Waste Number:

TYPE OF DISCHARGE:

Continuous Batch Other _____

IF MORE THAN 100 KILOGRAMS OF ANY HAZARDOUS WASTE PER CALENDAR MONTH IS DISCHARGED TO THE SEWER, PLEASE INCLUDE THE FOLLOWING ITEMS OF INFORMATION FOR EACH HAZARDOUS WASTE, TO THE EXTENT SUCH INFORMATION IS KNOWN AND READILY AVAILABLE.

Hazardous Constituent Information:

Name of Constituent	Mass in Wastestream (this month)	Concentration in Wastestream (this month)	Mass in Wastestream (next 12 months)

I certify that I have a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree I have determined to be economically practical.

Signature of Company Representative

Date