

STATE OF COLORADO

Bill Owens, Governor
Douglas H. Benevento, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090



Colorado Department
of Public Health
and Environment

Hazardous Waste Authority for the Discharge of Hazardous Waste to Publicly Owned Treatment Works

The Colorado Department of Public Health and Environment (the Department) has received several questions as to whether the Clean Water Act or the Colorado Hazardous Waste Act regulate the discharge of hazardous waste to a Publicly Owned Treatment Works (wastewater treatment plant or POTW) that if otherwise disposed of would be regulated by the Colorado Hazardous Waste Regulations. The following paragraphs describe how the Department will make that determination.

Discharges of Hazardous Waste. The domestic sewage exclusion provides an exclusion from the hazardous waste regulations for domestic sewage and mixtures of domestic sewage and other wastes, including hazardous waste. However, the domestic sewage exclusion does not provide for the uncontrolled discharge of hazardous waste to a POTW. Any such discharge must be in compliance with the Clean Water Act and the implementing regulations at 40 CFR Part 403, in order for the Department to consider the discharge to be excluded from the Hazardous Waste Regulations. The Department will consider the discharge of hazardous waste to the POTW to be in compliance with the Colorado Hazardous Waste Regulations under the following conditions:

1. The facility has requested written approval from the POTW for the discharge;
2. The POTW has issued a letter to the facility approving the hazardous waste discharge. The letter of approval must specify the type and quantity of hazardous waste that will be discharged, and the letter must specify that the discharge shall not violate any pretreatment standard or requirement pursuant to 40 CFR Part 403;
3. The letter of approval from the POTW must be available in the files maintained at the facility for review in the event of a hazardous waste compliance inspection; and
4. The facility must be in compliance with all reporting requirement pursuant to 40 CFR section 403.12(p).

Discharges of Hazardous Wastewater. In general, the treatment of hazardous wastewater in a wastewater treatment unit is exempt from the hazardous waste regulations provided that the treatment of the hazardous waste occurs in a tank or tank system and the effluent is subject to regulation under 40 CFR Part 403. The Department will consider a wastewater effluent from a wastewater treatment unit to be subject to regulation under the Clean Water Act under the following conditions:

1. A facility is a Significant Industrial User (SIU) or categorical industry and the facility's effluent meets all pretreatment standards and requirements and other conditions specified in the facility's discharge or pretreatment permit and 40 CFR Part 403; or
2. A facility is not required to have a discharge or pretreatment permit but the facility's effluent is in compliance with all applicable local, state or federal pretreatment standards and requirements or other conditions established by the POTW; or
3. A facility that treats hazardous waste in a wastewater treatment unit that does not discharge to the POTW, including dry cleaners, must obtain a zero discharge permit or other authorization from the POTW. The permit or authorization shall require periodic certification of zero discharge to be submitted by the facility to the POTW.
4. In cases where the facility is a zero discharger as in paragraph 3 above and the POTW does not have permitting authority under an approved pretreatment program, the facility shall certify zero discharge of regulated wastes. The certification shall be provided to the receiving POTW on an annual basis or more often if required by the POTW. The certification shall be as follows:

“I certify that [NAME OF FACILITY] has not discharged any waste to the POTW that, if disposed of by other means, would be a hazardous waste. I certify under penalty of law that this document and all attachments were prepared under my direction of supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Signature _____ Title _____ Date _____

Any SIU or categorical industry that has not obtained the required discharge or pretreatment permit and is discharging a hazardous wastewater to the POTW is considered to be disposing of hazardous waste. Also, any facility that is required to have a discharge or pretreatment permit and who is discharging a hazardous wastewater to the POTW either by intentional discharge or by circumventing the facility's wastewater treatment system is considered to be disposing of hazardous waste, irrespective of whether a permit has been issued. The Department may pursue an enforcement action for the disposal of hazardous waste in these cases.