Comments on Draft 2 Sludge Regulations

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GENERAL COMMENTS

Although Reach for Unbleached is making the effort to comment on this draft this in no way prejudgets our acceptance of either the current or final document. Several overarching issues, in addition to the specific concerns detailed in the line-by-line comments, remain outstanding.

These include, without limitation, the following:

♦ Studies to confirm the specific compounds required for sludge classification have not been designed or carried out;
♦ Pre-testing of sludge for designated compounds cannot be a final step before a spreading program is initiated, but must be a first step in the design and implementation of subsequent pilot studies of the ecological impact of real sludge in representative receiving environments;
♦ The testing regime detailed below needs to include an assessment of post spreading population and ecosystem impacts;
♦ The final program agreed to needs regulatory status that will insure public access to all information, the right to appeal, and meaningful penalties for non-compliance. One consequence of this concern is that all “should” statements in this document need to be “shall”, or “must”, statements;
♦ The potential for this regulation to remove financial and regulatory incentives for the pulp industry to reduce the volume of sludge they produce through process efficiency and true pollution prevention (including the creation of closed loop mills), and;
♦ The implications of the North American Free Trade Agreement and other international trade instruments on the potential switch of pulp mill sludge from “waste” to “product.”

LINE-BY-LINE COMMENTS

007-011 This paragraph is too general and the specific statements within are not all verifiable, or not applicable to all sludge (eg. Line 010 “..high levels of plant nutrients..”)

011 ADD These sludges will be free of compounds or properties that harm both macro- and micro-flora and fauna.

013-017 It must be acknowledged that land spreading is not the only, best, or preferred solution (see GENERAL COMMENTS, point 4). Also, I am not aware that studies have been done to confirm the relative environmental and health impacts of air pollution associated with land spreading pulp mill sludge as opposed to various types of burning (incineration, power boilers, recovery boilers as part of closed loop, etc.). Ultimately, the pulp and paper industry should be looking for a way to create pulping methods that have purified by-products that can be used as feed-stock for other processes.

032-033 “registered professional” still does not detail accountability and penalties for non-compliance, nor does it assure public access to decision-making data and process.
This paragraph raises the concern that we are attempting to create an alternative form of general disposal of a potentially hazardous waste. “Minimises”, “accumulation of contaminants” and “...the environmental impacts are not unacceptable,” are the types of terms that raise serious concerns for us.

Does “chemical composition” indicate, or imply, the addition of chemicals to compost?

Is ash from a Recovery Boiler (RB) scrubber/precipitator Fly Ash? Is RB ash covered in this regulation? What about grate ash?

While the use of certain types of sludge may prove to be useful in this type of site reclamation, less destructive resource extraction methods are preferable to using an industrial waste to cover up poor, destructive industrial practices.

“Pollution” is introduced into the environment, not just “present” and “...substantially alters the usefulness HEALTH AND INTEGRITY of the environment, INCLUDING WORKERS AND COMMUNITY MEMBERS.

The Registered Professional (RP) needs to be more clearly limited to specific professions, and the responsibilities and penalties for the RP’s actions clearly defined. Also, public access to the work of the RP, and the ability to challenge it need to be delineated. It would be preferable for the government to have the funding to supply staff to carry out the duties assigned to the RP throughout the regulation.

Pulp mills need to be recovering and reusing screening fines and other pulping rejects. We are not comfortable specifically granting them a method of disposal for these types of wastes.

We agree that sewage should be kept out of pulp sludge that is to be spread. The question of “in-house sewage” was raised at the last meeting and needs to be quantified and qualified.

We will not accept fly ash as a component of sludge.

The Sludge Management Plan needs to include provisions for sale-of-land situations, and the regulation needs to insure that cropping plans, especially those that are used to reclassify any sludge, are carried out as stated.

We have a concern the Hog Fuel is frequently contaminated with on-site and industrial wastes.

This change of control for pulp mill sludge requires a Regulation, not a Guideline. All sentences containing “guideline” should read “regulation.”

ADD: “No land application of pulp mill sludge shall take place outside of this regulation.

While anyone using pulp mill sludge must do so responsibly, we are uncomfortable with the potential for mills to shift responsibility and liability for the disposal of their waste onto users who may not be fully aware of potential problems. We would like West Coast Environmental Law to have the opportunity to fully review this issue.
This regulation needs to have a mechanism for public appeal and accountability. If removing permits from the process eliminates this guarantee, we cannot support this definition of Class One. West Coast Environmental Law has suggested the possibility that generators of the spreadable classes of sludge need to bond and insure the process and the sludge. We support further exploration of this idea and request a specific briefing by WCEL on the legal issues.

We do not support Class Two sludge being used without a permit.

Public access to process and documents needs to be assured.

The public must have a right to appeal any spreading plan.

Public access to process and documents needs to be assured.

Class Three sludge must not be spread. The most hazardous sludge must be disposed of in a way that assures no introduction into the environment.

This paragraph raises issues of whether testing of sludge takes place before treatment/composting, after treatment/composting, or both. We prefer both. Issues of moisture content and dilution on testing are also of concern. We expect that a scientific panel would be able to provide better answers to these questions.

If primary and secondary sludge are to be combined, then both must be tested separately prior to being combined. The presence of bioaccumulative compounds that may be diluted to "non-detect" levels in post combination mixtures is of special concern.

Fly ash is not an acceptable component of sludge to be land spread.

ADD: "Compounds identified in the future that have effects contrary to the spirit and letter of this regulation shall be incorporated in the regulatory framework and become part of the Class designation for existing and future sludge. No sludge, or sludge spreading operation shall be 'grandfathered'!"

SEE COMMENTS FOR 229-231 AND 233.

CHANGE SENTENCE TO READ: "The sludge generator shall notify..." ADD: "These types of changes may be grounds for new appeals of spreading permits and, as such, must be made public and specifically available to directly interested parties as defined elsewhere in this regulation." NOTE: Adjacent land OWNERS, even if not living on the property, must also be notified.

Slimicides and fungicides used by the industry must be identified and added to the list.

TABLE COMMENTS: Overall, these numbers seem to be an improvement over draft one. The metals, in particular seem relatively well regulated. Specific comments;
- Cadmium levels are high compared to new Ontario Regs.
- Cyanide levels, explain please?
- >From the Monocyclic Aromatic Hydrocarbons onward, we do not have confidence that we have all the right compounds. Further study is necessary.
- Why are the Class Two and Class 3 levels for PCBs increased? There is no reason to allow the addition of these persistent, bioaccumulative toxics into the environment.
- The section from Phthalic Acid Esters through Octylphenol needs further study and improvement. These are important compounds, and their impacts are becoming more understood as levels of traditionally understood pollutants are reduced.

283 The entire SAMPLING METHOD SECTION needs the review of the proposed scientific panel.

285-286 Frequency of sampling and who will conduct sampling needs to be defined. We support unannounced sampling with union representatives, and independent observers.

303 SLUDGE STORAGE AND STOCKPILING is an example of a section which needs to have “should” replaced by “shall.”

307 ADD: “...minimise objectionable odours AND PROTECT WORKERS.”

318 ADD: “...prevent sludge, LEACHATE, OR RUNOFF from entering...”

343 Sawdust used for base must not be from treated wood and needs to have parameters of its own.

353 The SLUDGE HANDLING section needs to specify the safety of the work environment.

385 “...diversionary works and site restoration measures...” need to be specified. There is an impression here that the regulation will allow activities that may cause harm and require mitigation. This is not acceptable.

390-394 The questions “By Whom?” and “How Often?” need to be answered for this section. Also, more extensive post application monitoring may be required, pending the advice of the scientific panel.

398-402 Need to clarify why greater slopes may be acceptable and what percent moisture is acceptable as “de-watered or dried.”

417-423 Air monitoring is appropriate to determine appropriate boundaries and buffers. Again, the impression is given that unacceptable concentrations of pollution will be allowed by this regulation, as long as it takes place far away from people who might complain. We cannot support that outcome.

429 Request WCEL opinion on language surrounding ALR and other applicable Acts.

437 Our comments on the PRE-APPLICATION TESTING section are on hold pending the advice of the scientific panel.

557 Methods are needed to confirm the intended crops are planted.

561 How were the Application Rates arrived at, and what is their justification?
Boron and Thallium are missing from this list.

What is the justification for 1000 kg TKN?

This type of re-classification, if it is allowed to occur, requires a permit and process that is open to the public and can be appealed. Bonds are required to insure that crops used to obtain a Class change are grown. Class Two sludge should not end up on agricultural land. Examples of cases where such a change might be realistic would be helpful.

A moisture content of 70 per cent seems high. What is the justification?

Class One Sludge also requires post application monitoring. The testing system may be more involved pending the advice of the scientific panel. The testing regime detailed below needs to include an assessment of post spreading population and ecosystem impacts. Also, Class Two sludge does not go on agricultural land, therefore, vegetation emergence and plant harvest may not occur in the space of one year, and are not appropriate sole indicators of when to test. Class One sludge spreading sites may be able to use these indicators.

All previous concerns about Registered Professionals apply here.

ADD: “. . .analysed for yield, protein content, AND UPTAKE OF METALS AND OTHER IDENTIFIED CONTAMINANTS.”

Public Access to documents and the permit process should be enshrined in this section. Does this statement differ from rules in place for spreading of manure, fertiliser, compost? We would like WCEL opinion on this section.

Lists of all chemicals used in mill processes are required. Certifiable lists of mill activities, processes, etc. that are routed to secondary treatment are required.

ADD: “to each sludge user, THE PUBLIC AND DIRECTLY EFFECTED PARTIES.”

We recognise the potential for areas of this size can have certified Class One Sludge spread without a permit, but regional waste manager, public and concerned party notification is required. We would like WCEL opinion.

ADD: “...SHALL notify the Regional Waste Manager, THE PUBLIC AND DIRECTLY EFFECTED PARTIES.” Also, the issue of bonding and insurance need to be addressed in this section. We would like WCEL opinion.

The Regulation needs to guarantee that these proposed parameters are indeed met.

ADD: “...was land applied AND WHERE LAND APPLICATION TOOK PLACE.”

ADD: “f) a description of the land where each sludge batch was applied, including location, agronomic pre-testing, environmental and flora and fauna quantity and quality.

ADD: “generator AND AT A MOELP OFFICE, OR OTHER PUBLICLY ACCESSIBLE LOCATION...”

Sections b), c), and d) should be included in Class One documentation as well.
ADD: "...application of CLASS ONE SLUDGE TO AREAS OVER ONE HECTARE AND Class Two..." 

ADD: "...nature, source, quantity AND QUALITY..."

ADD: "...persons who live OR OWN LAND adjacent..."

ADD: "that was land applied AND WHERE APPLIED."

ADD: "generator AND AT A MOELP OFFICE, OR OTHER PUBLICLY ACCESSIBLE LOCATION..."

ADD: "applied AND WHERE APPLIED."

We strongly agree with this point and want instruments in this act to guarantee that facilitated sludge disposal will not act as a disincentive to true pollution prevention.

We do not support any spreading of Class Three sludge. If spreading of Classes One and Two is to be specifically allowed, and possibly facilitated, Class Three should not be spread at all.