

# Sewage Sludge/Clean Water Act Enforcement: U.S. Environmental Protection Agency and Newport, Tennessee Wastewater Treatment Plant Enter into Consent Agreement



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

11/01/2019

The United States Environmental Protection Agency (“EPA”) and Newport Utilities (“Newport”) entered into an October 21st Complaint and Consent Agreement/Final Order (“Agreement”) addressing alleged violations of Section 405(a) of the Clean Water Act (relating to sewage sludge). See Docket No. CWA-07-2019-0185.

The Agreement states that Newport owns and/or operates a wastewater treatment plant (“Plant”) in Newport, Tennessee.

Section 405 of the Clean Water Act addresses the disposal of sewage sludge resulting from the operation of a treatment works. The implementing regulations are found in Subpart B of 40 C.F.R. 503 addressing land application of sewage sludge. The State of Tennessee had not applied for or obtained primary authority to administer and enforce the sludge management program.

The Agreement provides that the Newport Plant “applies sewage sludge” to “agricultural land,” as those terms are defined by 40 C.F.R. §§ 503.9 and 503.11, respectively. The Plant is further stated to be required by its National Pollution Discharge Elimination Permit to submit an annual report to EPA each year regarding its sludge activities for the preceding year.

An annual report is stated to have been submitted for the calendar year 2017 containing a summary of testing results and application information for sludge. The report is stated to have indicated that three hundred and forty-one and seventeen hundredths (341.17) dry metric tons of bulk sewage sludge were generated at the Plant which was land applied.

The annual report is stated to have indicated that between April 1, 2017 and June 30, 2017 sewage sludge from the Plant was sampled and analyzed. The analysis is stated to have concluded that the concentration of Nickel in the sampled sludge was 493 milligrams per kilogram.

The Agreement alleges that Section 405(e) of the Clean Water Act was violated because of land application of sewage sludge (biosolids) containing pollutants in excess of permitted ceiling limits. Specifically, the Agreement provides:

Respondent land applied approximately 341.17 dry metric tons of sewage sludge between April 1, 2017 and June 30, 2017, that contained concentrations of Nickel in excess of the ceiling concentration permitted in Table 1 of 40 C.F.R. § 503.13.

Newport neither admits nor denies the factual allegations and legal conclusions in the Agreement.

A civil penalty of \$8,300 is assessed.

A copy of the Agreement can be downloaded [here](#).