

ATTACHMENT

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PPC 9471.1984(03)

TANKS USED FOR EMERGENCY CONTAINMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SEP _6 1984

Timothy A. Taylor
Wang Laboratories, Inc.
Mail Stop 02G2
41 Wellman Street
Lowell, Massachusetts 01851

Dear Mr. Taylor:

This is in response to your letter of August 2, 1984, in which you requested an interpretation of RCRA regulations regarding tanks used for emergency secondary containment. It should be understood that his interpretation applies only to the Federal regulations promulgated in 40 CFR Parts 260-265. In states with EPA-authorized hazardous waste programs, the state regulations will apply.

As provided under 40CFR §264.1(g)(8) and §265.1(c)(11), emergency structures (including tanks) are exempted from the regulatory standards of 40CFR Parts 264 and 265 (except for the preparedness and prevention and contingency plan requirements of those standards). To qualify for the exemption a unit must be intended exclusively for immediate responses to discharges of hazardous wastes, such as burst pipes, ruptured containers or tanks, breached dikes, and the like. Structures used for responding to discharge events which occur periodically or repeatedly, or in which containment or treatment extends beyond the immediate response period, do not qualify for the exemption.

The applicability of the exemption to the three example "secondary containment" tanks described in your letter must be determined based on a site-specific assessment of each unit against the above criteria. For example, taking the case of the tank used to contain spilled residue from a truck loading/unloading area, the exemption would apply to the tank only if

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it could be demonstrated that such spills were extremely rare and unpredictable events.

I hope this adequately answers your questions. Please let me know if I can be of any further assistance.

Sincerely,

Peter Guerrero
Special Assistant to the Division Director