

June 26, 2000

Amy M. Romano
Environmental Strategies Corporation
9 Albany Street
Cazenovia, NY 13035

Dear Ms. Romano:

Thank you for your letter of May 9, 2000 asking about the regulatory status of a sump associated with an elementary neutralization unit (ENU). You specifically ask whether a sump that collects corrosive wastewater would be considered ancillary equipment to an exempt ENU, and, therefore, would not be regulated as a hazardous waste storage tank.

You describe a situation where hazardous wastewater (corrosivity characteristic) is collected in a concrete sump. The sump is pumped out daily to an aboveground tank where the wastewater is neutralized (the ENU). Under the federal regulations, ENUs are exempt from the Resource Conservation and Recovery Act (RCRA) requirements in 40 CFR Parts 264, 265, and 270, if they satisfy the definition of an ENU per ' 260.10. (See 40 CFR " 264.1(g)(6), 265.1(c)(10) and 270.1(c)(2)(v)). In addition, ancillary equipment to ENUs may be exempt from the requirements in RCRA Parts 264, 265 and 270 as the preamble language to the September 2, 1988 rule states.

A. . . the exemptions apply to sumps that meet the definition of a tank in 40 CFR 260.10 and that are used for the purpose of conveying hazardous wastewater to an exempted wastewater treatment or elementary neutralization unit . . .@

(53 Fed. Reg. 34080)

Generally, under the federal program, a sump which meets the definition of a tank and is used in conveying hazardous wastewater to the ENU could be considered ancillary equipment to an ENU, and thus exempt from the requirements in RCRA Parts 264, 265, and 270. However, please note that this position represents the federal

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requirements regarding ENUs and ancillary equipment. States, on the other hand, that are authorized to implement the RCRA program may, and often do, have more stringent requirements than the federal program.

Because the situation you describe may involve site specific issues affecting the status of the sumps, the proper authority to answer your questions would be the authorized state where the activity is being conducted. If the state is not authorized, the appropriate contact would be the EPA Regional Office.

Please note that exempt ENUs, including ancillary equipment to the exempt ENUs, although themselves not subject to certain RCRA regulation, must contain the hazardous waste being managed. Releases from these units to the environment could be considered disposal of hazardous wastes without a permit, and could subject an owner or operator to clean-up authorities.

Thank you for the opportunity to address your inquiry. If you have any questions, please contact Jeff Gaines staff at (703) 308-8655.

Sincerely,

Elizabeth A. Cotsworth, Director
Office of Solid Waste

cc: Steve Heare, PSPD
Sonya Sasseville, PSPD
Kathy Nam, OGC
James Reidy, EPA Region II

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