

# Hooker Chemicals and Plastics Corporation

DEC 27-03

## Statutes and Regulations

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*6 NYCRR Section 360.1(c)(29).*

**NOTE:**

*Applicable regulation has been renumbered 6NYCRR 360.1(d)(91).*

## Issue

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Whether the leachate treating facility at Hooker's plant is a solid waste management facility within the meaning of 6 NYCRR Part 360, thereby requiring a permit.

## Summary of Facts

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The unit in question serves to treat the leachate generated and collected at petitioner's Hyde Park landfill. After treatment, the liquid is discharged pursuant to regulation of the City of Niagara Falls into the collection system of the City's wastewater treatment plant.

## Summary of Ruling

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The leachate is an industrial waste, which may be hazardous. The unit in question performs a function which may be characterized as either the treatment, processing, or disposal of solid waste. Thus, the unit is a solid waste management facility as defined by 6 NYCRR Part 360 and requires a permit pursuant to that Part.

## Judicial Disposition

No party has challenged the declaratory ruling.

## Text of Ruling

July 11, 1980

John Hanna, Jr., Esq.  
Whiteman, Osterman & Hanna  
99 Washington Avenue  
Albany, New York 12210

Re: Petition for Declaratory Ruling on Behalf of Hooker  
Chemicals & Plastics Corp.

Dear Mr. Hanna:

I have received your June 18, 1980 letter which, replying to mine of May 30, supplements your May 15, 1980 petition. I should note that several questions posed in my May 30 letter were not addressed in your reply (e.g., description of the leachate being treated, and identification of other substances being treated). Nevertheless, I believe we have sufficient information on which to base the declaratory ruling herein made, to wit: that a 6 NYCRR Part 360 permit is necessary for the Calgon unit.

At present Hooker has a 6 NYCRR Part 364 permit authorizing the hauling of leachate collected at the Hyde Park facility to the Calgon unit located at Buffalo Avenue, Niagara Falls. Under 6 NYCRR Section 364.2(a) and ECL Section 27-0301.3, the Department has authority to regulate disposal facilities (their location and manner of operation) at which Part 364 permittees dispose of their collected wastes. The Department's practice of exercising that authority through requiring the disposal facility to obtain an appropriate permit is reflected in the revision to Part 364 now undergoing public comment prior to promulgation.

The August 6, 1979 letter from Regional Engineer McMahon was an exercise of the authority noted above, though not performed through the medium of a Part 360 permit. As I understand it, leachate accumulation at the Hyde Park facility has reached emergency proportions and this most expeditious exercise of our authority was warranted. It should also be noted that the letter

closes with a reference to the circumstances under which further approval or denial could become necessary.

The Calgon unit is unquestionably treating, processing or disposing of industrial waste which may, upon further investigation be classified as hazardous waste. In either event, and/even independent of the Part 364 analysis set forth above, the unit is a solid waste management facility as defined in 6 NYCRR Section 360.1(c)(29), and thus requires a Part 360 permit pursuant to 6 NYCRR Section 360.2.

Richard A. Persico  
General Counsel/Deputy Commissioner