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that is a governmental unit within the meaning of §1.103–1 is disregarded.

(d) Effective date—(1) In general. This section applies to bonds sold on or after July 8, 1997. See §1.103–8(a)(5) for rules applicable to bonds sold before that date.

(2) Elective retroactive application. An issuer may apply this section to any bond sold before July 8, 1997.

[T.D. 8718, 62 FR 25506, May 9, 1997]

§ 1.142(a)(5)–1 Exempt facility bonds: Sewage facilities.

(a) In general. Under section 103(a), a private activity bond is a tax-exempt bond only if it is a qualified bond. A qualified bond includes an exempt facility bond, defined as any bond issued as part of an issue 95 percent or more of the net proceeds of which are used to provide a facility specified in section 142. One type of facility specified in section 142(a) is a sewage facility. This section defines the term sewage facility for purposes of section 142(a).

(b) Definitions—(1) Sewage facility defined. A sewage facility is property—

(i) Except as provided in paragraphs (b)(2) and (d) of this section, used for the secondary treatment of wastewater; however, for property treating wastewater reasonably expected to have an average daily raw wastewater concentration of biochemical oxygen demand (BOD) that exceeds 350 milligrams per liter as oxygen (measured at the time the influent enters the facility) (the BOD limit), this paragraph (b)(1)(i) applies only to the extent the treatment is for wastewater having an average daily raw wastewater concentration of BOD that does not exceed the BOD limit;

(ii) Used for the preliminary and/or primary treatment of wastewater but only to the extent used in connection with secondary treatment (without regard to the BOD limit described in paragraph (b)(1)(i) of this section);

(iii) Used for the advanced or tertiary treatment of wastewater but only to the extent used in connection with and after secondary treatment;

(iv) Used for the collection, storage, use, processing, or final disposal of—

(A) Wastewater, which property is necessary for such preliminary, primary, secondary, advanced, or tertiary treatment; or

(B) Sewage sludge removed during such preliminary, primary, secondary, advanced, or tertiary treatment (without regard to the BOD limit described in paragraph (b)(1)(i) of this section);

(v) Used for the treatment, collection, storage, use, processing, or final disposal of septage (without regard to the BOD limit described in paragraph (b)(1)(i) of this section); and

(vi) Functionally related and subordinate to property described in this paragraph (b)(1), such as sewage disinfection property.

(2) Special rules and exceptions—(i) Exception to BOD limit. A facility treating wastewater with an average daily raw wastewater concentration of BOD exceeding the BOD limit will not fail to qualify as a sewage facility described in paragraph (b)(1) of this section to the extent that the failure to satisfy the BOD limit results from the implementation of a federal, state, or local water conservation program (for example, a program designed to promote water use efficiency that results in BOD concentrations beyond the BOD limit).

(ii) Anti-abuse rule for BOD limit. A facility does not satisfy the BOD limit if there is any intentional manipulation of the BOD level to circumvent the BOD limit (for example, increasing the volume of water in the wastewater before the influent enters the facility with the intention of reducing the BOD level).

(iii) Authority of Commissioner. In appropriate cases upon application to the Commissioner, the Commissioner may determine that facilities employing technologically advanced or innovative treatment processes qualify as sewage facilities if it is demonstrated that these facilities perform functions that are consistent with the definition of sewage facilities described in paragraph (b)(1) of this section.

(3) Other applicable definitions—(1) Advanced or tertiary treatment means the treatment of wastewater after secondary treatment. Advanced or tertiary treatment ranges from biological treatment extensions to physical-chemical separation techniques such as denitrification, ammonia stripping,
§ 1.142(a)(6)–1 Exempt facility bonds: solid waste disposal facilities.

(a) In general. This section defines the term solid waste disposal facility for purposes of section 142(a)(6).

(b) Solid waste disposal facility. The term solid waste disposal facility means a facility to the extent that the facility—

(1) Processes solid waste (as defined in paragraph (c) of this section) in a qualified solid waste disposal process (as defined in paragraph (d) of this section);

(2) Performs a preliminary function (as defined in paragraph (f) of this section); or

(3) Is functionally related and subordinate (within the meaning of §1.103–8(a)(3)) to a facility described in paragraph (b)(1) or (b)(2) of this section.

(c) Solid waste—(1) In general. Except to the extent excluded under paragraph (c)(2) of this section, for purposes of section 142(a)(6), the term solid waste means garbage, refuse, and other solid

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