

PPC 9441.1984(15)

INCINERATORS THAT RECEIVE GASEOUS EMISSIONS, RCRA EXCLUSION,  
CAA APPLIES

7-31-84

MEMORANDUM

SUBJECT: Ignitability Characteristic Application to Hot  
Gaseous Process Emissions

FROM: John H. Skinner, Director  
Office of Solid Waste

TO: James H. Scarbrough, Chief  
Residuals Management Branch, Region IV

In your June 27, 1984, memorandum you requested our guidance as to whether the hazardous determination of a waste is or is not supposed to be made at standard temperature and pressure or whether this determination is to be made in the form (i.e., gas, solid, liquid) that it is generated.

In particular, you raised concerns about the destruction of materials in fume incinerators and argued that facilities could avoid regulation by simply not condensing vent gas and overhead emissions. You also argued the §261.21(a)(2) states that wastes which are not liquids must be evaluated for the ignitability characteristic at standard temperature and pressure.

At the facility in question, the generator had been condensing the gaseous emissions and feeding them along with other gaseous wastes into an incinerator. These gaseous emissions were previously condensed prior to treatment in a fume incinerator. This same facility now plans to feed uncondensed reactor vent gases directly to the fume incinerator (i.e., will not be condensing the gases and will only be sending gaseous emissions to the incinerator).

As you may be aware, our office previously addressed this issue when we finalized the incinerator regulation in June of 1982. In the preamble to that rule, we said that the

feed to fume incinerators are subject to regulation only under the Clean Air Act and not under RCRA since these gaseous emissions are not solid wastes (see 47 FR 27530, June 24, 1982). In particular, we stated:

"EPA agrees with commenters that fume incinerators are subject only to regulation under the Clean Air Act and does not intend that the Parts 264 and 265 regulations apply to these facilities. Fume incinerators which are used to destroy gaseous emissions from various industrial processes, for example, are not subject to regulation under RCRA. In general, the RCRA standards do not apply to fume incineration since the input is not identifiable as a solid waste, according to the definition set forth in §261.2".

However, we recently indicated in the Federal Register (49 FR 5314, February 10, 1984) that we are re-considering this position. In particular, in a proposal to list light end vent gases from the production of chlorinated aliphatic hydrocarbons, we stated that gaseous emissions which are condensable to liquids at standard temperature and pressure can be subject to regulation and would not be included in the exclusion of gaseous materials under RCRA (see Section 1004(28)). See preamble to proposal where we stated:

".... The light ends component of these overheads is in fact liquids at standard temperature and pressure, but because of elevated temperature and admixture with gases (e.g., hydrogen, methane) they require some form of physical condensation to be isolated as liquids.....

The Agency considers these light ends to be solid wastes within the meaning of Section 1004(2) of RCRA. Although these wastes are generated as gases, they are liquids at standard temperature and pressure, and can feasibly be condensed to the liquid phase after generation.

The exclusion from RCRA of 'gaseous materials' that are not contained (Section 1004(28)), in the Agency's

view, applies only to true gases, namely those which are not capable of being condensed and which remain gases at standard temperature and pressure.

Therefore, until we decide whether and how to finalize the proposal, we must defer a final answer to your question. In the interim, however, any incinerator that just receives gaseous emissions would be excluded from control under RCRA, as stated in the preamble to the final incinerator rules. At the same time, you should be aware that the rules may change and that incinerators that receive gaseous emissions, which are liquids at standard temperature and pressure, may be subject to regulation in the future.

If you have any further questions, please call Matt Straus of my staff at 475-8551.