

9432.1987(10)

TOTALLY ENCLOSED TREATMENT EXEMPTION AND ACCUMULATION  
PROVISIONS APPLICABILITY TO AN ASH TREATMENT FACILITY

AUG 28 1987

Mr. Marc R. Wolman, P.E.  
ENER GROUP, Inc.  
The Thomas Block  
116 Commercial St.  
Portland, Maine 04101

Dear Mr. Wolman:

This letter is in response to your letter dated July 9, 1987 sent to Mike Petruska, Office of Solid Waste. Your questions concern the applicability of the totally enclosed treatment exemption for your ash treatment facility and the applicability of other RCRA regulations for your facility. Your letter addresses a hypothetical waste treatment facility that includes incineration for purpose of energy recovery. The ash from the incinerator is mixed with a non-hazardous reagent, which you state substantially reduces metal leachability and EP toxicity levels. You also state that the reagent addition vessel and mixing apparatus prevent releases of any hazardous material into the environment. The Agency does not believe that the totally enclosed treatment exemption applies to the system you describe, for the reasons explained below.

The definition of a totally enclosed treatment is defined in 40 CFR 260.10 as (1) being directly connected to an industrial production process and (2) constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. For your information, I have enclosed the regulatory clarification of a totally enclosed treatment facility issued by EPA in 1981.

In your hypothetical waste treatment process, you state that the incinerator is considered an industrial process. The Agency disagrees with your interpretation and instead, considers the incinerator as a waste treatment process. Therefore, the ash treatment cannot qualify as a totally enclosed treatment facility because (1) it is not connected to an industrial process and

(2) the incinerator stack is open to the air which would inevitably release some hazardous constituents to the environment.

As you have requested, the other applicable RCRA regulation that would apply to your facility is the small quantity generators rule (40 CFR 261.5). This rule allows generators of 100-1000 KG/month to accumulate waste on-site in tanks or containers for up to 180 days (or 270 days if they must ship their waste over 200 miles for treatment or disposal). Generators of more than 1000 kg/month only are allowed to accumulate waste in tanks or containers for up to 90 days. In either case, the generator would be exempt from the permitting process for treatment that occurs in the accumulation tank (see 51 FR 10146).

In summary, your hypothetical treatment facility would not meet the totally enclosed treatment facility exemption because the incinerator is not considered an industrial process. Therefore, the ash system is not connected to an industrial process but connected to a waste treatment process that produced a hazardous material as a residual. However, some flexibility with respect to permitting your treatment system may exist if it can be described as treatment in an accumulation tank as described in the preamble to the small quantity generators rule. If you should have any questions or clarification, please contact Monica Chatmon of my staff at (202) 475-7236.

Sincerely,

James Berlow, Chief  
Treatment Technology Section

cc: Robert Dellinger  
Robert April  
Michael Petruska