

1. Small Quantity Generator vs Totally Enclosed Treatment Unit

The revision of 40 CFR 261.5 (45 FR 766623) states that in determining the quantity of hazardous waste he generates; a generator need not include hazardous waste removed from or produced in on-site treatment or storage units (261.5(d)). This regulation seems to conflict with Regulatory Interpretive Letter #84 (RIL 84) which says that the amount of waste generated is counted as it exits the totally enclosed treatment unit and not when it is first generated (i.e., prior to entering the unit). Fred Lindsay resolved this conflict by pointing out that by definition a totally enclosed unit cannot be entered for the purpose of determining if the solid waste generated is in fact hazardous. Therefore it is only reasonable to test when the waste exits the treatment unit.

