



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

February 3, 2000

Owen E. Boyd, President  
SolmeteX  
29 Cook Street  
Billerica, MA 01821

Re: Second Request for Concurrence of MADEP Exemption

Dear Mr. Boyd:

This letter is in response to your correspondence dated November 4, 1999 in which you submitted additional information to support your request for EPA's concurrence of an exemption granted to your company by MADEP in a letter dated July 7, 1999. We regret to say, however, that as indicated in our previous response to you of September 14, 1999, what you have submitted to us does not contain adequate information in order for us to provide you with any assessment of the applicability of the federal hazardous waste exemptions to your treatment system.

The Hazardous Waste Program of the EPA-New England Office has a formal procedure in place for dealing with requests for what are referred to as "regulatory interpretations". Many of the requests that we receive are for clarifications of various hazardous waste regulations and for determining the applicability of those regulations to various operating scenarios. In order to generate a complete response to these requests EPA must have all of the necessary information. In order to facilitate this process for you we have explained below a summary of the hazardous waste regulations which we believe could be the basis of a request from you.

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One of the federal RCRA permitting exemptions which may be applicable to your treatment system is what is referred to as the totally enclosed treatment exemption found at 40 CFR §264.1(g)(5). The federal definition of totally enclosed treatment facility can be found at 40 C.F.R. § 260.10. The following is a list of the requirements which must be met in order for a system to be considered "totally enclosed". 1) A totally enclosed treatment system must be "directly connected to an industrial production process." Any request that you may submit to us should indicate what type of process your treatment system will be connected to. 2) A totally enclosed treatment system must also be "constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment." As explained in EPA's Guidance entitled "Totally Enclosed Treatment Facility: Regulatory Clarification," RCRA Compendium # 9432.1983(01), several requirements must be met in order to meet this condition. First, the treatment system must be completely contained on all sides. You must confirm that this is how your treatment system is designed. Second, there must be no predictable potential for overflows and spills. Your submittal should indicate what types of protections are used to prevent leaks or spills from the treatment unit. Finally, the system must be constructed to prevent air emissions.

You should submit to us, in writing, that your installed system meets the totally enclosed criteria listed above and would therefore be exempt from RCRA permitting requirements. It should be noted that although such a system may not need to comply with RCRA permitting requirements, other RCRA requirements may apply if hazardous wastes are generated.

As we have indicated in our previous response to you, EPA has in the past assessed systems claiming the totally enclosed treatment exemption of 40 CFR §264.1(g)(5). We, again, refer you to the letter addressed to Mr. Steven DeGabriele of MADEP dated January 13, 1997 which discusses EPA's position regarding the totally enclosed treatment exemption. You may wish to use this as a guidance when developing your request.

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Should you have any questions regarding the above, please contact Sharon Leitch, of my staff. She may be reached at (617)918-1647.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kevin McSweeney".

Kevin McSweeney, Associate Director of Waste Policy  
Office of Ecosystem Protection

cc: Ken Rota, EPA RCRA Technical Unit  
Jeff Fowley, EPA Office of Regional Council  
Jim Miller, MADEP Bureau of Waste Prevention