

6. Blending of Hazardous Waste Fuel Burned in Cement Kilns

A notice in the September 15, 1987, Federal Register (52 FR 34779) clarifies the "big city cement kiln" restriction under 40 CFR Section 266.31(c). The restriction prohibits the burning of hazardous waste fuels in cement kilns located within the boundaries of a city with a population greater than 500,000 unless the kilns comply with the regulations applicable to hazardous waste incinerators. The regulations applicable to hazardous waste incinerators include Subpart O of Parts 264 and 265, permitting under Part 270, and notification under RCRA Section 3010.

Subpart O applies to units that burn wastes for the purpose of destruction rather than energy recovery, so that blending or mixing of hazardous waste prior to incineration would be considered treatment rather than a recycling activity (i.e., producing a fuel).

Therefore, if a marketer blends hazardous waste fuels in tanks prior to sending it to a "big city cement kiln" (subject to incinerator regulations) to be burned for energy recovery, is the blending considered to be treatment of hazardous waste, or could it be a recycling operation?

A tank in which a marketer blends hazardous waste fuel is subject to 40 CFR Parts 264 and 265, and permitting, regardless of the type of unit in which the fuel is subsequently burned. According to preamble language in the April 13, 1987, Federal Register (52 FR 11819), EPA believes that fuel blending tanks are subject to the same standards as other hazardous waste fuel storage devices (52 FR 11820). In addition, nothing explicitly excludes a marketer's hazardous waste fuel blending tanks from regulation. Therefore, it makes no difference whether a marketer sends hazardous waste fuel to a boiler or industrial furnace subject to Part 266 Subpart D, or to a unit subject to the incinerator standards. The marketers at least have to comply with the permit and facility standards for storage units under Parts 270, 264 and 265.

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