

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

NOVEMBER 86

1. Hazardous Waste Fuel in Incinerators

In general, according to 40 CFR 261.2(c)(2), off-specification commercial chemical products listed under 40 CFR 261.33 are hazardous wastes when burned for energy recovery. One exception to this rule is if the commercial chemical product is itself a fuel or normally a component of fuel (261.2(c)(2)(ii)). For example, benzene, listed as U019, is normally a component of gasoline, and may be burned for energy recovery without being considered a hazardous waste (see 50 FR 49168, footnote 8 and 50 FR 629, footnote 16). Would off-specification product benzene, therefore, be an acceptable start-up fuel for use in an incinerator if it is not regulated as a hazardous waste?

No, the off-specification benzene would not be acceptable as a start-up fuel in an incinerator because in that situation it is a hazardous waste. by the definitions in 40 CFR 260.10, industrial furnaces and boilers burn materials for energy recovery. The primary purpose of an incinerator, however, is to burn for destruction (see 50 FR 625). Therefore, hazardous materials burned in incinerators are always considered to be hazardous wastes per 40 CFR 261.2(b)(2), EPA holds that burning in an incinerator cannot constitute burning for energy recovery. Additional policy on the nature of incinerators and use of wastes as auxiliary fuels appears in a memorandum from Karen Walker to Michael Sanderson (Region VII) dated June 27, 1986. Therefore, an off-specification product listed under 40 CFR 261.33 that is burned in an incinerator is regulated as a hazardous waste even if it is used as a start-up fuel. 40 CFR 264.345(c) and 265.345 state that hazardous wastes must not be fed to an incinerator during start-up or shut-down unless the incinerator is operating within steady-state conditions or conditions specified in the permit. Therefore, it would not be possible to use hazardous waste as a start-up fuel. Non-hazardous wastes or virgin fossil fuels are normally used instead.

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