

PPC 9441.1991(17)

REGION V FUEL-BLENDING FACILITIES CONCERNS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NOV 4 1991

MEMORANDUM

SUBJECT: Response to Region V Fuel-Blending Concerns

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste (OS-300)

TO: David A. Ullrich, Director
Waste Management Division (SH-12)

This memorandum responds to your September 24, 1991, memorandum requesting Headquarters views on the regulatory interpretations made by Region V specific to hazardous waste fuel-blending facilities. Your memorandum raised three issues which will be presented separately along with our reaction to the Regional interpretation.

ISSUE 1

A facility, in requesting a determination concerning RCRA permit requirements, described its process as receiving waste liquid and solid fuel stock, recycling the stock, and shipping waste fuel to a kiln. The facility indicated that it considers the fuel a recyclable material pursuant 40 CFR 261.6(a)(2)(ii) and exempt from regulation.

ANSWER

We agree with the Region's interpretation that any unit that meets the definition of a "tank" or a "tank system" is subject to regulation. Blending or other treatment to produce a hazardous waste fuel is not exempt. In fact, the facility seems to have misread 40 CFR 261.6(a)(2)(ii) which states recyclable materials such as hazardous wastes burned in boilers and industrial furnaces (BIF): "... are not subject, to the requirements of this section [i.e. 261.6] but are regulated under Sections C through G of Part 266 of this chapter and ... Parts 270 and 124." Thus, these units are subject to permitting.

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The facility's rebuttal of the Region's earlier determination attempts to define the unit's purpose as different from storage. The "purpose" of the unit is moot; if it's treating or storing hazardous waste, then it is regulated. The diagrammed process, including grinders, filters, etc., appears to meet the definition of a tank and its ancillary equipment. If the unit or a component is not a tank or a tank system, or if it has additional features that would potentially affect emissions or releases to the environment, then it would be regulated under Subpart X (miscellaneous units) or permit conditions may be added based on the omnibus authority of Section 3005(c)(3) of RCRA, as amended.

ISSUE 2

Considering the BIF rule, can a fuel-blending TSD accept low-BTU (less than 5000 BTU/lb.) into its mixing program?

ANSWER

A marketer of hazardous waste fuel currently can, and has previously been able to accept low BTU fuel. However, there are certain factors which govern whether a BIF can accept waste fuel originating from low-BTU waste. Under the sham recycling policy BIFs have not generally been allowed to burn hazardous waste fuel that had a heating value of less than 5000 BTU/lb. A low-BTU fuel (as generated) had to be processed to increase the heating value to greater than 5000 BTU/lb. by a means other than blending (e.g., decanting aqueous liquids) before it could be burned.

Now that the BIF rule has been promulgated, the BIFs can burn low-BTU waste after they conduct compliance emission testing with low-BTU waste and certify compliance under the new interim status standards. See section 266.103(a)(6) (56 FR 7213, Feb. 21, 1991).

ISSUE 3

Will the unit processes used to increase the heating value of low-Btu waste (i.e., phase separation, centrifugation, and air stripping) require a RCRA permit for their operation?

ANSWER

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The unit processes used to raise the Btu value would require a permit for their operation. If the units do not meet the definition of units for which minimum technology standards have been established (e.g., tanks or tank systems), then the unit can be permitted under Part 264, Subpart X. The need for a permit for these types of processing units comes from the language in Section 261.6(a)(2) which separates recyclable materials used in a manner constituting disposal or burned, including treatment prior to being burned for energy recovery, from other recycling activities like reclamation of a solvent in a distillation unit.

If you have any question concerning our interpretation of these fuel-blending issues, please call Sonya Sasseville (260-3132) or Chester Oszman (260-4499) of my staff.

Attachment

cc: Hazardous Waste Division Director, Regions 1-4 & 6-10
Regional Subpart X Contacts
Regional Incineration Contacts
Sonya Sasseville, OSW
Chester Oszman, OSW