
40 C.F.R. § 266.103

Interim status standards for burners.

(a) *Purpose, scope, applicability*—(1) *General.* (i) The purpose of this section is to establish minimum national standards for owners and operators of “existing” boilers and industrial furnaces that burn hazardous waste where such standards define the acceptable management of hazardous waste during the period of interim status. The standards of this section apply to owners and operators of existing facilities until either a permit is issued under § 266.102(d) or until closure responsibilities identified in this section are fulfilled.

(ii) *Existing or in existence* means a boiler or industrial furnace that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. A facility has commenced construction if the owner or operator has obtained the Federal, State, and local approvals or permits necessary to begin physical construction; and either:

(A) A continuous on-site, physical construction program has begun; or

(B) The owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the facility to be completed within a reasonable time.

(iii) If a boiler or industrial furnace is located at a facility that already has a permit or interim status, then the facility must comply with the applicable regulations dealing with permit modifications in § 270.42 or changes in interim status in § 270.72 of this chapter.

(2) *Exemptions.* The requirements of this section do not apply to hazardous waste and facilities exempt under §§ 266.100(b), or 266.108.

(3) *Prohibition on burning dioxin-listed wastes.* The following hazardous waste listed for dioxin and hazardous waste derived from any of these wastes may not be burned in a boiler or industrial furnace operating under interim status: F020, F021, F022, F023, F026, and F027.

(4) *Applicability of part 265 standards.* Owners and operators of boilers and industrial furnaces that burn hazardous waste and are operating under interim status are subject to the following provisions of part 265 of this chapter, except as provided otherwise by this section:

(i) In subpart A (General), § 265.4;

(ii) In subpart B (General facility standards), §§ 265.11–265.17;

(iii) In subpart C (Preparedness and prevention), §§ 265.31–265.37;

(iv) In subpart D (Contingency plan and emergency procedures), §§ 265.51–265.56;

(v) In subpart E (Manifest system, recordkeeping, and reporting), §§ 265.71–265.77, except that §§ 265.71,

265.72, and 265.76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources;

(vi) In subpart G (Closure and post-closure), §§ 265.111-265.115;

(vii) In subpart H (Financial requirements), §§ 265.141, 265.142, 265.143, and 265.147-265.150, except that States and the Federal government are exempt from the requirements of subpart H; and

(viii) Subpart BB (Air emission standards for equipment leaks), except § 265.1050(a).

(5) *Special requirements for furnaces.* The following controls apply during interim status to industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see paragraph (a)(5)(ii) of this section) at any location other than the hot end where products are normally discharged or where fuels are normally fired:

(i) *Controls.* (A) The hazardous waste shall be fed at a location where combustion gas temperatures are at least 1800 °F;

(B) The owner or operator must determine that adequate oxygen is present in combustion gases to combust organic constituents in the waste and retain documentation of such determination in the facility record;

(C) For cement kiln systems, the hazardous waste shall be fed into the kiln; and

(D) The hydrocarbon controls of § 266.104(c) or paragraph (c)(5) of this section apply upon certification of compliance under paragraph (c) of this section irrespective of the CO level achieved during the compliance test.

(ii) *Burning hazardous waste solely as an ingredient.* A hazardous waste is burned for a purpose other than solely as an ingredient if it meets either of these criteria:

(A) The hazardous waste has a total concentration of nonmetal compounds listed in part 261, appendix VIII, of this chapter exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of nonmetal compounds in a waste as-generated may be reduced to the 500 ppm limit by *bona fide* treatment that removes or destroys nonmetal constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the facility record; or

(B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by *bona fide* treatment that removes or destroys organic constituents. Blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly blended must be retained in the facility record.

(6) *Restrictions on burning hazardous waste that is not a fuel.* Prior to certification of compliance under paragraph (c) of this section, owners and operators shall not feed hazardous waste that has a heating value less than 5,000 Btu/lb, as-generated, (except that the heating value of a waste as-generated may be increased to above the 5,000 Btu/lb limit by *bona fide* treatment; however, blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and records must be kept to document that impermissible blending has not occurred) in a boiler or industrial furnace, except that:

(i) Hazardous waste may be burned solely as an ingredient; or

(ii) Hazardous waste may be burned for purposes of compliance testing (or testing prior to compliance testing)

for a total period of time not to exceed 720 hours; or

(iii) Such waste may be burned if the Director has documentation to show that, prior to August 21, 1991:

(A) The boiler or industrial furnace is operating under the interim status standards for incinerators provided by subpart O of part 265 of this chapter, or the interim status standards for thermal treatment units provided by subpart P of part 265 of this chapter; and

(B) The boiler or industrial furnace met the interim status eligibility requirements under § 270.70 of this chapter for subpart O or subpart P of part 265 of this chapter; and

(C) Hazardous waste with a heating value less than 5,000 Btu/lb was burned prior to that date; or

(iv) Such waste may be burned in a halogen acid furnace if the waste was burned as an excluded ingredient under § 261.2(e) of this chapter prior to February 21, 1991 and documentation is kept on file supporting this claim.

(7) *Direct transfer to the burner.* If hazardous waste is directly transferred from a transport vehicle to a boiler or industrial furnace without the use of a storage unit, the owner and operator must comply with § 266.111.

(b) *Certification of precompliance* — (1) *General.* The owner or operator must provide complete and accurate information specified in paragraph (b)(2) of this section to the Director on or before August 21, 1991, and must establish limits for the operating parameters specified in paragraph (b)(3) of this section. Such information is termed a “certification of precompliance” and constitutes a certification that the owner or operator has determined that, when the facility is operated within the limits specified in paragraph (b)(3) of this section, the owner or operator believes that, using best engineering judgment, emissions of particulate matter, metals, and HCl and Cl₂ are not likely to exceed the limits provided by §§ 266.105, 266.106, and 266.107. The facility may burn hazardous waste only under the operating conditions that the owner or operator establishes under paragraph (b)(3) of this section until the owner or operator submits a revised certification of precompliance under paragraph (b)(8) of this section or a certification of compliance under paragraph (c) of this section, or until a permit is issued.

(2) *Information required.* The following information must be submitted with the certification of precompliance to support the determination that the limits established for the operating parameters identified in paragraph (b)(3) of this section are not likely to result in an exceedance of the allowable emission rates for particulate matter, metals, and HCl and Cl₂.

(i) General facility information:

(A) EPA facility ID number;

(B) Facility name, contact person, telephone number, and address;

(C) Description of boilers and industrial furnaces burning hazardous waste, including type and capacity of device;

(D) A scaled plot plan showing the entire facility and location of the boilers and industrial furnaces burning hazardous waste; and

(E) A description of the air pollution control system on each device burning hazardous waste, including the temperature of the flue gas at the inlet to the particulate matter control system.

(ii) Except for facilities complying with the Tier I or Adjusted Tier I feed rate screening limits for metals or total

chlorine and chloride provided by §§ 266.106 (b) or (e) and 266.107 (b)(1) or (e), respectively, the estimated uncontrolled (at the inlet to the air pollution control system) emissions of particulate matter, each metal controlled by § 266.106, and hydrogen chloride and chlorine, and the following information to support such determinations:

(A) The feed rate (lb/hr) of ash, chlorine, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feedstream (hazardous waste, other fuels, industrial furnace feedstocks);

(B) The estimated partitioning factor to the combustion gas for the materials identified in paragraph (b)(2)(ii)(A) of this section and the basis for the estimate and an estimate of the partitioning to HCl and Cl₂ of total chloride and chlorine in feed materials. To estimate the partitioning factor, the owner or operator must use either best engineering judgment or the procedures specified in appendix IX of this part.

(C) For industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under paragraph (c)(3)(ii)(A), the estimated enrichment factor for each metal. To estimate the enrichment factor, the owner or operator must use either best engineering judgment or the procedures specified in “Alternative Methodology for Implementing Metals Controls” in appendix IX of this part.

(D) If best engineering judgment is used to estimate partitioning factors or enrichment factors under paragraphs (b)(2)(ii)(B) or (b)(2)(ii)(C) respectively, the basis for the judgment. When best engineering judgment is used to develop or evaluate data or information and make determinations under this section, the determinations must be made by a qualified, registered professional engineer and a certification of his/her determinations in accordance with § 270.11(d) of this chapter must be provided in the certification of precompliance.

(iii) For facilities complying with the Tier I or Adjusted Tier I feed rate screening limits for metals or total chlorine and chloride provided by §§ 266.106 (b) or (e) and 266.107 (b)(1) or (e), the feed rate (lb/hr) of total chlorine and chloride, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium in each feed stream (hazardous waste, other fuels, industrial furnace feedstocks).

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