

PPC 9494.1986(04)

REGULATION OF HAZARDOUS WASTE FUEL
CADENCE PRODUCT 312

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APR 11 1986

Guinn Doyle
Chief, Hazardous Waste Management Branch
Division of Land Pollution Control
Indiana State Board of Health
P. O. Box 1964
Indianapolis, IN 46206-1964

Dear Guinn:

This is in response to your March 27, 1986, letter regarding the regulatory status of the hazardous waste fuel, Cadence Product 312, prior to the effective dates of the November 29, 1985, marketer and burner rules, and the January 4, 1985, redefinition of solid waste.

Your understanding of the applicability of these rules to Cadence Product 312 is correct. Prior to the January 4, 1985, redefinition of solid wastes, listed wastes and sludges used directly as fuel were subject to RCRA storage and transportation standards. Hazardous waste-derived fuels produced by processing, blending, or other treatment of listed wastes or sludges, were, however, exempt from regulation. This exemption was considered temporary and was provided because we had not evaluated the hazards posed by such recycling and appropriate regulatory alternatives. Thus, waste-derived fuels were considered to be recycled (and exempt) once they were processed or blended.

The Environmental Protection Agency (EPA) had intended for this (temporary) exemption to apply to waste-derived fuels produced by third-party marketers -- off-site facilities where wastes collected from multiple generators were processed before shipment to a burner. It became clear, however, that many generators who burned their waste on site or who shipped their wastes directly to a burner were claiming the exemption even if the only blending

they did occur as a result of piping multiple wastes to a single storage tank prior to shipment or use as a fuel on site. To close this loophole, the January 4, 1985, redefinition limited the exemption of waste-derived fuels produced from listed wastes and sludges to those waste-derived fuels produced by a person who neither generates nor burns the waste. Thus, generators and burners could no longer engage in incidental treatment and claim they produced a waste-derived fuel exempt from regulation.

We understand that Cadence Product 312 is produced by blending listed solvent recovery still bottoms generated at the Product 312 production facility with wastes received from other generators. Thus, persons who stored and transported Product 312 prior to July 5, 1985 (the effective date of the solid waste redefinition), could have claimed the exemption for waste-derived fuels. After July 5, 1985, however, Product 312 has been subject to RCRA storage and transportation standards under federal regulations, although not in authorized states (except by virtue of state law, if applicable).

The November 29, 1985, marketer and burner administrative controls eliminated the remaining exemptions for the storage and transportation of hazardous waste fuels. That rule subjects (for the first time) non-sludge characteristic waste fuels and waste-derived fuels produced by third-party marketers to storage and transportation controls. Thus, once the November 29, 1985, rule is effective, the storage and transportation of any hazardous waste used as a fuel or used to produce a fuel, and any fuel produced from any hazardous waste, is regulated. The transportation controls for the newly regulated fuels became effective March 31, 1986, and the storage controls became effective May 29, 1986.

I am sure you are aware that producers of Product 312 may not have considered the material to be a hazardous waste fuel prior to November 29, 1985. Cadence has argued with EPA since late 1984 that Product 312 is a material used as an effective substitute for coke without providing a significant energy to a blast furnace. Cadence therefore argued that Product 312 is not a solid waste and, thus, is not subject to RCRA rules. (See §261.2(e).) As you know, EPA explained in the preamble to the November 29, 1985, rule why we disagree with that interpretation and conclude that Product 312 is subject to regulation as hazardous waste fuel. Nonetheless, persons who store and transport Cadence Product 312 had no absolute way of knowing whether EPA would agree with their position. Once they

learned of our interpretation, however, they should have taken action to comply with the storage and transportation standards as quickly as possible.

I hope this addresses your concerns. If you have further questions, please give me a call at 202-382-7917.

Sincerely,

Robert Holloway
Acting Manager
Waste Combustion Program

cc: Mr. William E. Muno Region V
Steven Silverman, Esq.

bcc: Richard Stoll, Esq.
Bob Dellinger
Jack Lehman