PPC 9494.1986(01)

NOTIFICATION OF MARKETING OR BURNING
HAZARDOUS WASTE FUEL

9 FEB 86

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Dear Mr. Lawson:

This is in response to your January 9, 1986, letter requesting answers to several questions pertaining to provisions of our November 29, 1985, final rule concerning the burning of hazardous waste fuels.

As I indicated in our January 15 phone conversation, our response to your questions is as follows:

Questions 1 and 2 (paraphrased). Can LTV Steel notify EPA of its burning activities without requesting, or being deemed to have requested, interim status for subsequent use or storage of Cadence Product 312? If yes, would storage of Product 312 after January 29 subject LTV Steel to any substantive obligations under the RCRa hazardous waste storage facility standards, including recordkeeping, reporting, or closure requirements?

Response. The notification regarding waste-as-fuel activities required of persons who are marketing or burning hazardous waste fuel (like Product 312) on January 29, 1986, in no way implies that a person is requesting, or intends to request, interim status for subsequent storage of the fuel. The hazardous waste fuel storage standards become effective on May 29, 1986, for newly regulated facilities such as those storing waste-derived fuels like Product 312. Existing burners who store such hazardous waste-derived fuels after May 29 must comply with the interim status storage standards. (New facilities must obtain a storage facility permit prior to initiating storage after May 29.) If LTV Steel terminates Product 312 storage activities prior to May 29, LTV Steel would not be subject to any RCRA standards for such storage.

Question 3 (paraphrased). Can LTV Steel store Product 312 after March 31, 1986, without requesting, or being deemed to have requested, interim status, and without incurring any obligations under the RCRA storage facility standards. This question is

asked in light of the fact that the RCRA transportation requirements become effective for newly regulated hazardous waste-derived fuels like Product 312 on March 31, and the RCRA manifest system requirements specify that shipments must be sent to designated facilities that are permitted to handle the waste (i.e., in interim status or have a RCRA permit).

Response. You are correct in noting that for the two month period between March 31 and May 29, some hazardous waste fuels, like Product 312 in your situation, will be transported under the manifest system to facilities that are not permitted to store the hazardous waste fuel. In our efforts to implement the manifest system as soon as EPA identification numbers could be assigned subsequent to notification, we inadvertently omitted regulatory language in the November 29 rule that would, during the two month period, explicitly: (1) allow hazardous waste fuels to be shipped to facilities that have notified EPA regarding their waste-as-fuel activities but that are not yet subject to the interim status or permit standards; and (2) require such receiving facilities to sign and keep copies of the manifest.

EPA has set a precedent for allowing hazardous waste subject to the manifest requirements to be sent to designated facilities that are not subject to interim status or permit standards. See 50 FR 652 (January 4, 1985) and §260.10 (amended definition of "designated facility") regarding transport of recycled materials to recycling facilities that introduce the waste directly into the recycling process without prior storage, and that are otherwise not subject to RCRA treatment, storage, or disposal facility interim status or permit standards. Similarily, EPA intends that, during the two month period in question, owners and operators of facilities not yet subject to the hazardous waste fuel storage standards, like LTV's Product 312 storage facilities, notify EPA regarding their waste-as-fuel activities and sign and retain copies of manifests. If LTV Steel continues storing Product 312 after March 31 but ceases prior to May 29, LTV Steel is not subject to RCRA storage standards with respect to such storage.

I hope that this addresses your concerns.

Sincerely,

Robert Holloway
Environmental Engineer

cc: Ted Reese
J. Winston Porter
Marcia Williams
Richard Stoll, Esq.
Steven Silverman, Esq.