

9441.1987(24)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 15 1987

Mr. Ronald D. Conte
Operations Coordinator
Petroswill Chemicals, Inc.
2523 Mogadore Road
Akron, OH 44313

Dear Mr. Conte:

Thank you for your letter of March 27, 1987, concerning the regulatory status of virgin and recycled chemicals being placed in and removed from storage tanks. From the facts you provided, the only material that appears to be a solid waste at all and so potentially subject to the hazardous waste regulations, is the recycled xylene. My understanding is that your normal operation involves blending of recycled xylene to produce a marketable solvent. In this situation, EPA only regulates storage and transportation of the spent solvent, not the reclamation or blending process or the reclaimed material. (See 40 CFR §261.6(c)). However, you indicated that you produced a batch of material not suitable for solvent use, and that you sent this for fuel use. EPA does not regulate a reclaimed solvent that is used to produce a fuel. (See CFR §261.6(a)(2)(ii), and Part 266, Subpart D.) Therefore, it was correct for you to manifest the blended solvent/chemical mixture that you were sending for fuel use.

Because your operation normally produces reclaimed solvent, the mixture actually became a hazardous waste at the time you determined that it was not suitable for solvent use (and that it therefore had to be marketed as fuel). As referenced above, EPA does regulate the storage of hazardous waste fuel as well as fuel blending tanks. In your case, however, it appears that the tank was really a product (solvent) blending tank, and so not subject to regulation. This determination is based on your assurance that the fuel production was an isolated incident, and that your original intent in placing reclaimed xylene in the tank was to produce solvent, not fuel. The fact that you normally produce solvent and that you actually did market some of the material from the tank as a solvent (as well as fuel)

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supports such a conclusion regarding your intent. Let me reiterate, however, that EPA does normally regulate tanks used to store or blend hazardous waste fuel, and your tank was not subject to regulation only due to the special circumstances described above.

If you have questions concerning the determinations outlined above, contact Mike Petruska of my staff at (202) 475-8551.

Sincerely,

Original Document signed

Marcia Williams
Director of Solid Waste

cc: Regional Waste Management
Division Directors