

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

SEPTEMBER 19, 1988

MEMORANDUM

SUBJECT: Questions and Answers Regarding the Handling of Explosives and Commercial Fuels

FROM: Joseph S. Carra, Director
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TO: Hazardous Waste Branch Chiefs,
Region I-X

Recently, a flood of questions relating to the handling of waste explosives has come into this office, spurred in part by the promulgation of the Subpart X permitting requirements. This memorandum presents three scenarios that relate to common practices in the handling of wastes and attempts to explain the Agency's interpretation of regulatory Controls for each. The scenarios illustrate the use of the immediate response exception under section 264.1(g)(8), the burning of commercial fuels during training, and disposition of ordnance on training ranges.

SCENARIO #1

A field agent of the Bureau of Alcohol, Tobacco, and Firearms (BATF) is called to remove a pipe bomb and several containers full of chemicals (characteristic HW) used to make explosives from a building. The agent determines that the pipe bomb and the chemicals present a dangerous situation. He loads them in his bomb truck and drives to the local spent ammo destruction range, where he begins to unload them very carefully. As he readies the materials for destruction via open burning/open detonation (OB/OD), he remembers that he may need an EPA subpart X permit.

1. Is open burning/open detonation subject to the Subpart X permitting requirements?

Response

Assuming the chemicals are explosive wastes and have the potential to detonate (see section 265.382), the agent's determination of an emergency should trigger the immediate response exception under sections 264.1(g)(8) and 270.1(c)(3). No subpart X permit is, therefore, necessary. If there is no imminent threat, a permit (or interim status) is needed for the OB/OD. The permit, in many cases, may be an emergency permit issued under section 270.61.

2. Is an EPA ID number and a H.W. manifest needed to move the pipe bomb and the chemicals from the building to the spent ammo destruction range?

Response

The “activities” covered by the immediate response exception can include transportation. Otherwise, if the exception does not apply, the agent becomes a generator of hazardous waste and the waste should be manifested. The BATF offices are advised to have RCRA identification numbers.

SCENARIO #2

At a local Air Force base, a Colonel in charge of fire safety orders an Airman to take waste jet fuel (fuel with water contamination or with an exceeded shelf life) from the Waste Fuel Tank, and to spread the waste fuel over an old plane on Runway 8. The Colonel orders the Airman to ignite the plane to start this month's crash response/fire fighting training exercise. The Colonel wonders if he may need an EPA Subpart X permit.

1. Does the burning of the plane constitute thermal treatment subject to a Subpart X permit?

Response

The actual burning of the plane is part of a training exercise where the so-called waste fuel is intended for use in the training exercise. You must first verify whether or not the fuel is a commercial fuel (i.e., burning kerosene, gasoline, or jet fuel would appear to be within normal use). If it is a commercial fuel, then the burning of the plane does not constitute a RCRA regulated activity. However, when commercial fuels are used in these exercises, a soil contamination problem may develop. These soils then may be subject to other federal (or state) authorities. The Colonel should be advised to minimize the release of the fuels to the soils, or surface or groundwater in order to preclude future clean-up problems.

2. If the burning is viewed as thermal treatment (i.e., the fuel turns out not to be a commercial fuel), can the exercise be allowed to proceed if the base has interim status?

Response

No, the open burning of hazardous waste (other than the open burning of explosive wastes) is prohibited. Hazardous wastes such as used oil or spent solvents should not be burned in this manner. As stated above, only commercial fuels would be allowed to be burned, consistent with normal use of such fuel.

SCENARIO #3

The navy owns a Caribbean island that it uses entirely for target practice, both by airplanes and destroyer class vessels. During a bombing run, 4 of the bombs hit the ground but fail to detonate. The pilot requests permission to take a strafing run at the bombs to detonate them. However, the flight-op officer thinks that they may need an EPA Subpart X permit.

1. Are those unexploded bombs an explosive waste subject to Subpart X permitting prior to detonation?

Response

Since the normal situation is that not all bombs go off when dropped, any unexploded bombs are within the normal use pattern of training/target practice. There is no intent to discard the bombs. Subsequent detonation of the bombs in place is not subject to Subpart X. The training mission (or further use of bombs) can include the strafing run, any dismantling or deactivation of the bombs, or detonating them in place by other means. If at any point the bombs are collected and shipped to a place other than the training range (or another training range) to be open burned/open detonated, then that OB/OD site is subject to the permitting requirements of RCRA.

2. Is the island a SWMU even if Subpart X does not apply?

Response

Because there was no intent to discard the bombs, the island is not subject to RCRA. The same would apply at all types of ranges where the normal and expected use of a manufactured product has occurred. However, if the residual materials (e.g., unexploded bombs) are left in place after the military ceases using the island for any further target practice, the materials may be subject to other federal authorities.

I hope the hypothetical discussion above helps you in your effort to deal with unusual explosives waste handling issues typified above. If you have any questions regarding the discussion or need further clarifications please contact Chet Oszman (8-382-4499) or Nestor Aviles (8-382-2218) of my staff.

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