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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

February 9, 1990

MEMORANDUM

SUBJECT: RCRA Status of Dinoseb Formulations

FROM: Devereaux Barnes, Director
Characterization and Assessment Division
Office of Solid Waste (OS-330)

TO: Steve Johnson, Director
Field Operations Division
Office of Pesticide Programs (H7506C)

This is in response to your memorandum of July 7, 1988 requesting clarification of the RCRA status of four Dinoseb formulations.

In order for materials to be hazardous wastes under the RCRA program, and therefore subject to RCRA regulation, they must first be classified as solid wastes. Materials become solid waste when they are discarded or are intended for discard (40 CFR 261.2). Thus, Dinoseb formulations which are disposed of or are intended for disposal are solid wastes. They become hazardous wastes if they are "listed" in 40 CFR Part 261, Subpart D, or exhibit one or more of the hazardous waste characteristics: ignitability, corrosivity, reactivity, or extraction procedure (EP) toxicity (40 CFR 261.20-261.24).

Based upon a consideration of the regulations identified above, we have made a determination as to the regulatory status of the four Dinoseb formulations identified in your memorandum and these are provided below.

1.) DINOSEB TECHNICAL PRODUCT

In this formulation the compound (Dinoseb) is the major

constituent (95%). The compound known as Dinoseb is listed in 40 CFR 261.33(e) when it "consists of the commercially pure grade of the chemical, any technical grades [emphasis added] of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient." (See 40 CFR 261.33(d)(comment).) In a pesticidal formulation, this Dinoseb technical product becomes a "P" or acute hazardous waste and is subject to RCRA regulation when it is discarded or intended for discard.

It also should be noted that the Dinoseb technical product may be a potential "characteristic" hazardous waste because of its explosive nature (reactivity characteristic) under high temperature conditions. (See 40 CFR 261.23(b).) The material may also be a hazardous waste by virtue of its corrosivity depending upon the results of tests prescribed in 40 CFR 261.22 for corrosivity.

2.) DINOSEB IN ORGANIC SOLVENT

In this formulation, the compound dinoseb is the sole active ingredient and when discarded or intended for discard, it would be a "P" or acute hazardous waste. Additionally, because the formulation consists of a high percentage of organic solvents, it may also be hazardous by virtue of its ignitability (40 CFR 261.21(a)(1) and (3)) or corrosivity (40 CFR 261.22(a)(1) and (2)).

3.) DINOSEB ALKANOLAMINE SALTS IN WATER

In this formulation, Dinoseb (2-sec-butyl-4,6-dinitro-phenol) is not the active ingredient. Rather, according to your memorandum, the active ingredient is "alkanol" amine dinoseb. Section 261.33(e) lists only Dinoseb. No salts are listed. Therefore, these formulations would not be considered a "P" or acute hazardous wastes. However, these materials, when they become wastes, would be hazardous wastes if they exhibited one or more of the hazardous waste characteristics. Of special concern would be the reactivity, corrosivity, and ignitability characteristics. Therefore, any Dinoseb formulations of this type should be evaluated with respect to characteristics before disposal.

4.) PESTICIDE MIXTURES/LOW CONCENTRATIONS OF DINOSEB SALTS IN WATER

As in the formulation above, the salts of Dinoseb are not listed in 40 CFR 261.33(e) as acutely hazardous wastes. Therefore this formulation, which lists "sodium dinoseb" as an active ingredient would not be an acute hazardous waste. In addition, this formulation lists "naptalam" as a second active ingredient. Thus, by virtue of there being two active ingredients, this formulation would not be a "commercial chemical product" as defined in 40 CFR 261.33(d)(comment) and therefore would not be an acute hazardous waste.

When this material is discarded, or is intended for discard, it may become a hazardous waste by virtue of exhibiting one or more of the hazardous waste characteristics and must, therefore, be evaluated with respect to the characteristics outlined in 40 CFR 261.20-261.24.

Formulations 1 and 2 listed above are acutely hazardous wastes when discarded or intended for discard and generators must comply with the requirements of RCRA with respect to generation, transportation, treatment, storage, and disposal as provided in 40 CFR Parts 261 through 264. These sections identify the specific requirements for generators, transporters, and operators of treatment, storage, and disposal (TSD) facilities.

Formulations 3 and 4 above are not acute hazardous wastes; however, they will be hazardous wastes if they exhibit any of the hazardous waste characteristics specified in 40 CFR 261.21-261.24. If these formulations are found to be characteristic hazardous wastes, they must be managed in accordance with the RCRA regulations outlined above. If these formulations are found not to be hazardous wastes, then they must be managed and disposed of in accordance with the solid waste regulations of the state in question.

If a holder or generator of the material elects to treat and/or dispose of any hazardous Dinoseb formulations on site, he will have to comply with the standards and requirements of 40 CFR Parts 264, 265 and 270 for obtaining a permit to operate a TSD facility, except to the extent that storage in containers or tanks, and treatment in tanks is allowed for 90 days under 40 CFR 262.34. (See 51 FR 10168, March 24, 1986. Further, farmers may dispose of these wastes on site under 40 CFR 262.70, subject to appropriate label instructions.

Finally, depending upon the amount of the waste generated, a generator may be eligible for the small quantity generator exemption(s) specified in 40 CFR 261.5. Under this section, a generator who generates less than one kilogram per calendar month of acute hazardous waste, or no more than 100 kilograms of hazardous wastes per calendar month, may qualify as a conditionally exempt small quantity generator. A conditionally exempt small quantity generator's wastes are not subject to regulation under 40 CFR Parts 262 through 266, 268, Part 270, and the notification requirements of Section 3010 of RCRA provided the generator complies with requirements specified in 40 CFR Sections 262.5(f), (g), and (j).

If you have any questions pertaining to the above, please contact Ron Josephson at 475-6715.

cc: Waste Management Division Directors, Regions I - X