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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

February 24, 1995

MEMORANDUM

SUBJECT: Debris and Soil Contaminated with Explosive Residues

FROM: James F. Michael, Chief
Disposal Technology Section (5303W)
Office of Solid Waste

TO: Lawrence A. Wapensky, Chief
Utah/North Dakota Section
Region VIII

This responds to your January 20, 1995 memorandum requesting assistance in answering questions raised by the State of Utah concerning regulatory issues pertaining to wastes contaminated with explosive residues.

The first question raises concern with the reference at 40 CFR 261.23(a)(8) to certain Department of Transportation (DOT) regulations concerning explosive classifications, that are cited as criteria for determining the characteristic of reactivity. The DOT regulations cited at 261.23(a)(8) have recently been changed and expanded to conform with Department of Defense hazard classes, therefore, presenting difficulties in implementing the Federal regulatory definition of reactivity under RCRA. Until such time that 261.23(a)(8) is updated, those referenced DOT regulations can not be used for determining reactivity. Reactivity determinations should be made using the remaining criteria at 261.23(a)(1) - (7).

The second question asks whether and when liquid, solid, or debris mixed with explosives would be considered reactive. Wastes, whether themselves explosives, or media contaminated with explosives could be considered reactive by meeting the definition of reactivity as described in 261.23(a)(1)-(7). Wastes that do not meet the criteria in 261.23(a)(1)-(7) would not be considered reactive.

The third question regards other Federal criteria for explosivity. If agencies such as the Bureau of Alcohol, Tobacco, and Firearms (BATF) have regulations, or protocols, for determining whether or not a substance is explosive, those regulations or protocols would not be enforceable under EPA regulations, unless they became incorporated into our rules. Specific methods used by agencies such as BATF to determine if a substance is an explosive could however, be applied to determine whether a waste is reactive according to 261.23(a)(6) or (7).

Thank you for the opportunity to address questions related to the reactivity characteristic as it relates to explosives. If you have any questions, please call Jeff Gaines at (703) 308-8655.

cc: Frank McAlister, AB, PSPD, OSW
Jeff Gaines, AB, PSPD, OSW