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

February 17, 1995

MEMORANDUM

SUBJECT: P and U Listed Wastes and the Contained-in Policy

FROM: Devereaux Barnes, Director
Permits and State Programs Division, OSW

TO: Norm Niedergang, Director
Office of RCRA, Region V

Recently your staff contacted us in regard to the Agency's current RCRA contained-in policy as it applies to environmental media that contain P and U listed hazardous wastes. Since this question has been posed several times by other Regions, we would like to take this opportunity to articulate the Agency's position on this matter.

The RCRA contained-in policy applies to P and U listed wastes in the same manner as for other listed wastes. Although 261.33(d) specifies that contaminated soil and water generated from cleanup of releases of P and U listed wastes must be managed as hazardous wastes, such soil or water would not be considered "contaminated" in this particular context if the implementing agency determined that the media did not contain such a listed waste.

As you may know, the Office of Solid Waste is currently developing a new rulemaking -- the HWIR Contaminated Media Rule -- that will likely codify the contained-in concept in some detail. That rule making should hopefully resolve a number of the questions that are often asked regarding the current contained-in policy. Several of your staff are members of the HWIR-Media workgroup, and we will keep them apprised of any further developments regarding this concept.

If you have any questions, please contact Dave Fagan of Carolyn Hoskinson of my staff, at (703) 308-8620 and (703) 308-8626, respectively.

RO 13732

cc: J. Boyle
K. Pierard
B. Pace
T. Kaneen