

9471.1988(05)

LEAKING OR DAMAGED EXPLOSIVES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

NOV 30 1988

Mr. Fred Smith
Institute of Makers of Explosives
1120 19th Street, N.W.
Washington, D.C. 20036

Dear Mr. Smith:

EPA has been requested by the Institute of Makers of Explosives to render an opinion on the application and interpretation of the immediate response exception as set forth at 40 C.F.R. secs. 264.1(g)(8), 265.1(c)(11), and 270.1(c)(3). It is the Agency's view that the treatment of leaking or damaged explosives, or undetonated explosives left after an initial firing attempt will, in many instances, fall within the circumstances contemplated by the cited provisions.

The Agency recognizes that the use of commercial explosives is subject to many non-EPA governmental regulations, including a prohibition by the Department of Transportation against the transportation of "leaking or damaged packages of explosives" (49 C.F.R. sec. 173.51). According to the Institute of Makers of Explosives, these regulations affect the handling of explosive waste and reinforce the obligation of members of the explosives industry to consider safety as a paramount concern. Such wastes, if not treated promptly and properly, can present an imminent public safety and environmental hazard, e.g., unplanned explosions or leaching of materials to the soil. The immediate response exception applies in those instances where treatment of the explosive waste through open burning/open detonation is taken in immediate response to a discharge or an imminent and substantial threat of a discharge of a hazardous waste.

Examples in which the immediate response exception would apply to the disposal of explosive waste by open burning/open detonation would include, but not be limited to, the following situations.

A. Land in cleared with explosives and an amount of damaged or unusable explosive waste remains that, for safety reasons, cannot be stored or transported off-site.

B. An explosives distributor has a temporary or permanent magazine at which undetonated (but, for safety reasons, unusable and not transportable off-site), leaking or damaged explosives are found, usually at the end of the period of explosives use or during a periodic check on the stored explosives.

C. An explosives distributor operates an on-site magazine for a project with a changing location (e.g., road building, pipeline) at which undetonated (but, for safety reasons, unusable and not transportable off-site), damaged or leaking explosives are found.

D. A mining operation detonates large amounts of explosives and a small percentage remains undetonated after the initial firing attempt but, for safety reasons, cannot be reused or transported off-site.

The Agency notes that a guidance manual is currently being prepared that will discuss the permit requirements for facilities which store, treat, or dispose of explosive waste in circumstances not qualifying for the immediate response exception.

Yours truly,

Original Document signed

Sylvia Lowrance
Director
Office of Solid Waste