9489.1987(02)

JUL 22 1987

MEMORANDUM

SUBJECT: Regulatory Requirements for File Training Pits

FROM: Marcia E. Williams, Director
Office of Solid Waste

TO: Kenneth D. Feigner, Chief
Waste Management Branch
EPA Region X

This is to address the issues and questions raised in your June 24, 1987, memorandum concerning burning of ignitable materials as part of fire training exercises. The two main issues concern: (1) the regulatory status of the burning itself, and (2) the status of materials that seep into the ground during the exercises.

1. Open burning. Under 40 CFR §265.382, open burning of hazardous waste (except for detonation of waste explosives) is prohibited. 1/ when a waste is either listed or if it exhibits one of the characteristics, it cannot be burned in a pit as this would be open burning. Materials such as characteristic used oil and spent solvents could not be burned in this manner. 2/ Commercial fuels such as kerosene, gasoline, and even jet fuel, however, could be used in these exercises. These materials are normally used as fuels and their being burned in fire fighting exercises would appear to be within normal use. A rule-of-thumb to distinguish commercial fuels from wastes in that when a material is commercially available to the public as a fuel, burning the materials would not be considered waste management.

1/ The memo from Karen Walter to Michael Sanderson that you mention states this kind of hazardous waste burning is thermal treatment, subject to Part 265, Subpart P. Note, however, that one provision in Subpart P is the open burning prohibition.

2/ You should note that burning spent materials in this manner is not a form of recycling because no energy recover is involved.

2. Contaminated soils. In the case where hazardous wastes are burned in pits and waste seeps into surrounding soils, the contaminated soils may contain hazardous waste. If listed wastes are burned, soil containing any amount of the waste (or a waste constituent) would be regulated as the hazardous waste until the waste is removed. If characteristic wastes are burned, the contaminated soil is only subject to regulation if it exhibits one of the characteristics. In either case, the release of hazardous waste into soil is a form of disposal. Unless the facility is properly permitted (or has interim status), the release into soil would be illegal.

You should note that even when commercial fuels are used in these exercises, a soil contamination problem may develop. The release of a material that is either listed in §261.33 or that exhibits one of the characteristics (e.g., ignitability) onto or into land or water is hazardous waste disposal. Anyone wishing to conduct these exercises with ignitable material then, would be advised to conduct the burn in a tank or a lined pit to prevent illegal disposal.

cc: Waste Management Division Directors (Regions I-X)
Solid Waste Branch Chiefs (Regions I-X)