United States
Environmental Protection
Agency

Office of
Solid Waste and
Emergency Response

EPA

**DIRECTIVE NUMBER:** 9441.04(83)

**TITLE:** Disposal of Outdated Ordnance by Incineration

**APPROVAL DATE:** 6-6-83

**EFFECTIVE DATE:** 6-6-83

**ORIGINATING OFFICE:** OSW

☑ **FINAL**

☐ **DRAFT**

**LEVEL OF DRAFT**

- ☐ A — Signed by AA or DAA
- ☐ B — Signed by Office Director
- ☐ C — Review & Comment

**REFERENCE (other documents):**

Key Words: Recycling, Incineration

Regulations: 40 CFR 261.6

Subject: Disposal of Outdated Ordnance by Incineration

Addressee: Regional Branch Chiefs, Regions I-X

Originator: Steven J. Levy, Chief, Permits Branch, State Programs and Resource Recovery Division

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Summary:

Where outdated ordnance is disposed of by incineration in a popping furnace, and a metal is recovered from the residue, §261.6 does not apply as this is not considered legitimate recycling. The recovery of metal is incidental to the operation.

However, if a reclaimer purchases outdated or surplus ordnance as contaminated scrap metal from a facility, and derives substantial revenue from the sale of the reclaimed metal, the operator of a popping furnace could possibly substantiate a claim for exemption under §261.6. In such a case, the facility would not require a RCRA permit under current regulations. In all other cases, a Part B application should be called.

It should be noted that the April 4, 1983 proposed redefinition of solid waste (48 FR 14514), if promulgated, would moot this issue. Under the redefinition, popping furnaces, even those used for reclaiming metals, would be required to obtain a RCRA incineration permit.

JUL 6 1983

MEMORANDUM

SUBJECT: Disposal of Outdated Ordinance by Incineration

FROM: Steven J. Levy
Chief
Permits Branch
State Programs and Resource Recovery Division (WH-563)

TO: Regional Branch Chiefs
Regions I - X

An issue has been raised about the status of so called "popping" furnaces operated by the Department of Defense. These are furnaces where DoD disposes of outdated ordinance by incineration, but then recovers brass or lead from the residue. The question is asked whether this constitutes legitimate recycling for purposes of 40 CFR 261.6.

In general, where DoD directly engages in this sort of activity one can presume that the primary purpose is to dispose of outdated ordinance, a hazardous waste. DoD is under an obligation to properly and safely dispose of these reactive wastes. Recovery of metals is normally incidental to the performance of that obligation. Because the intent is to dispose of hazardous waste, 40 CFR 261.6 does not apply and the popping furnace must be permitted.

Of course, in some instances, the operator of a popping furnace can substantiate a claim for exemption under 40 CFR 261.6. The clearest case would be where a reclaimer purchases outdated or surplus ordinance as contaminated scrap metal from a DoD facility, and derives substantial revenue from the sale of the reclaimed metal. It may even be possible that a DoD facility could substantiate a claim for legitimate recycling. In the above cases 40 CFR 261.6 would apply and the facility would not require a RCRA permit under the current regulations.

Finally, it must be recognized that the 4 April 1983, proposed redefinition of solid waste (48 FR 14514), if promulgated, would moot this issue. Under the redefinition popping furnaces, even those used for reclaiming metals, would be required to obtain a RCRA incineration permit.

Therefore, unless a claim can be substantiated, you should go ahead and call in and process the Part B's for these popping furnaces.

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