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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

December 20, 1989

MEMORANDUM

SUBJECT: Concurrence on Policy Directive Regarding Applicability of Land Disposal Restrictions to Reinjection of Treated Contaminated Groundwater under CERCLA and RCRA Corrective Actions

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste

TO: Henry Longest, Director
Office of Emergency and Remedial Response

This memorandum is to transmit OSW concurrence, with comment, on the draft policy directive regarding the applicability of treatment standards established under the RCRA land disposal restrictions to reinjection of treated contaminated groundwater associated with CERCLA and RCRA cleanups. The Office of General Counsel advises that the interpretation of Section 3020 of RCRA set forth in the directive can be supported by the plain language of the statute and the legislative history which accompanies it.

OSW supports the interpretation for several reasons:

- The end environmental result (cleanup to a protective level) is consistent with existing CERCLA and RCRA program guidance for cleanups, which rely on health-based rather than technology based standards.

- In response to a court decision, we are currently revisiting technology-based standards for the land disposal restrictions and are considering whether it is appropriate to cap the standards at health-based levels.

- Several technical practicability issues have been raised regarding pump and treat systems which call into question the practicability of achieving BDAT standards used in implementation of the land disposal restrictions.

Nonetheless, I believe that it is important that the Assistant Administrator be aware that this interpretation may provoke some considerable criticism once it is released. For one thing, this interpretation will in effect allow groundwater that may still be quite contaminated to be injected into an aquifer, while at the same time, under the land disposal restrictions the same groundwater could not be placed into a minimum technology surface impoundment. Some may argue that it is "technically feasible" to treat contaminated groundwater to health-based or BDAT levels before it is reinjected. If so, this interpretation may be perceived as having a rationale based more on economics than environmental protection.