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THE EFFECT OF AN UPCOMING RULE ON NONHAZARDOUS UNDERGROUND INJECTION CONTROL WELLS AND ELEMENTARY NEUTRALIZATION

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

January 5, 1994

MEMORANDUM

SUBJECT: Land Disposal Restrictions Rulemaking on Characteristic Wastes for Which Treatment Standards Were Remanded Phase III: Effect on Nonhazardous Class I Underground Injection Control Wells and Elementary Neutralization

FROM: Mike Shapiro, Director Office of Solid Waste

TO: Joseph R. Franzmathes, Director Waste Management Division US EPA Region IV

Wendell R. Cunningham, Director Water Management Division US EPA Region IV

This memorandum replies to the memorandum from John E. Dickinson, P.E. and Thomas Hansen, dated October 15, l993, which requests clarification on the effect of an upcoming land disposal restrictions (LDR) rule (Phase III) on nonhazardous Class I underground injection control wells (UIC wells) and elementary neutralization units.

Your questions arise from issues raised by a September 25, 1392, decision of the U.S. Court of Appeals in Chemical Waste Management v. EPA. Among other things, the court decision vacated LDR treatment standards for wastes displaying the characteristics of ignitability and corrosivity when they are managed in systems other than those regulated under the Clean Water Act (CWA) or that engage in treatment equivalent to systems regulated under the CWA, and those regulated in other than Class I nonhazardous UIC wells (such as certain Class V UIC wells). These vacated treatment

standards were the subject of an emergency interim final rule that was published in the Federal Register on May 24, 1993 (58 FR 29860). The September 25, 1993, court decision also remanded LDR treatment standards for the characteristic wastes when managed in wastewater treatment systems regulated under the CWA and in Class I nonhazardous UIC wells. These treatment standards will be addressed in the Phase III rule, scheduled to be proposed by mid-January, 1995, and finalized a year later. Until that time, I am unable to give you definitive answers to the questions posed in your letter.

The following two questions were highlighted in your letter. I have answered the questions based on the approach adopted in the May 24, 1993 interim final rule. I caution you, however, against using these answers as the basis of any decisions you may wish to make, because we simply do not know how the final Phase III rule will address these issues.

1. Will a nonhazardous Class I UIC well need a no-migration petition if the influent waste stream, at the point of generation, is ignitable or corrosive, and the concentrations of underlying hazardous constituents exceed proposed regulatory levels?

A nonhazardous Class I UIC well is defined by statute as engaging in land disposal. A waste that displays the characteristic of ignitability or corrosivity at the point of generation will require treatment to meet the LDR treatment standards prior to injection. If an approach is adopted in the Phase III rule like that taken in the emergency rule, treatment standards will apply to not only the hazardous characteristic, but to any underlying hazardous constituents in that waste at levels above minimize threat levels. Therefore, the UIC well would need to have a no-migration petition approved in order to accept ignitable and corrosive wastes that have not been treated lo meet treatment standards for underlying hazardous constituents.

2. Will the Phase III rule eliminate the exemption for elementary neutralization units and require that wastes managed in these units be treated for underlying hazardous constituents?

Currently, there are no plans to eliminate the exemption from permitting requirements for elementary neutralization Units in the

Phase III rule, nor does the Chemical Waste Management opinion address this issue (much less require changing the exemption). If an approach is adopted in the Phase III rule like that taken in the emergency rule, however, wastes treated to remove the characteristic in elementary neutralization units would require further treatment to meet the treatment standards for underlying hazardous constituents before the waste could be land disposed.

Judy Sophianopoulos is an active member of our LDR Phase III workgroup, and will be reviewing drafts of the proposed and final Phase III rules and participating in workgroup meetings. She will thus be kept informed of the most current thinking as the regulation is developed.

If you would like to discuss these issues further, please call Rich Kinch of my staff at (703) 308-8434.