

9553.1989(02)

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

November 13, 1989

MEMORANDUM

SUBJECT: Applicability of RCRA Land Disposal
Restrictions to CERCLA Response Actions

FROM: Francoise Brasier, Chief
Underground Injection Control Branch, Office
of Drinking Water (WH-550E)

FROM: David M. Fagan,
Office of Solid Waste and Emergency Response
(OS-341)

We have reviewed the Federal Register notice (54 FR 41566) dated October 10, 1989, concerning the applicability of RCRA Land Disposal Restrictions (LDR) to response actions pursuant to CERCLA. The final Agency interpretation of this issue will impact the Underground Injection Control (UIC) program due to the fact that many CERCLA sites use "pump and treat" injection wells. An October 31, 1989 memorandum from OSWER (attached) resolved the issue to the satisfaction of all involved programs.

The Safe Drinking Water Act provides the authority for the regulation of injection wells to assure the protection of underground sources of drinking water (USDW). An injection well that disposes of hazardous waste into or above a USDW is defined as a Class IV injection well (40 CFR 144.6). These types of injection wells were banned on July 18, 1980. The only exception to this ban are injection wells used at CERCLA and RCRA sites as stated in RCRA 3020.

We support the interpretation that excavation and redeposition of hazardous waste into the same unit at a CERCLA cleanup site would not constitute land disposal. This interpretation is consistent with the Agency decision on the Class IV ban except in

the cases of injection that are pursuant to provisions for cleanup of releases under CERCLA and RCRA actions. Additional discussion to the CERCLA and RCRA exception to the Class IV ban can be found 49 FR 20141 dated May 11, 1984.

In cases where the hazardous waste is removed from a CERCLA site and is disposed of through injection, we believe the LDR do apply. The exception to the Class IV ban in RCRA Section 3020 applies to "injection of contaminated around water into the aquifer from which it was withdrawn. If the contaminated ground water is removed to be injected off site, we believe the Class IV ban is in effect and the LDR applies. The injection facility would need to meet all of the UIC requirements including the LDR as found in 40 CFR 148 to assure the protection of USDWs. If you have further questions, please contact Bruce Kobelski at (FTS) 382-7275.

Attachments