

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460**

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Mr. Barton Day  
Bryan Cave, LLP  
700 13th Street, N.W., Suite 700  
Washington, DC 20005

Dear Barton:

You have requested guidance regarding the following fact situation (which reflects a proposed management scenario for a groundwater remediation site involving one of your clients). Contaminated groundwater carrying wastecode U154 is being treated in a wastewater treatment system. The residues of the treatment process are a wastewater which is discharged to waters of the United States pursuant to an NPDES permit and a sludge which is land disposed. The sludge does not exhibit a hazardous waste characteristic. Your question is what Land Disposal Restriction requirements, if any, apply with respect to the sludge.

The sludge would be prohibited from land disposal (and hence subject to meeting treatment standards before land disposal) only if it is a hazardous waste at the point it is generated. This is because the sludge is a different treatability group from the wastewater being treated. 55 FR at 22661 (June 1, 1990). You indicate that the contaminated groundwater, although liquid, meets the technical definition of nonwastewater when it is introduced into the wastewater as a result of mixing. It is EPA's view that the change of treatability group principle applies to situations where liquid wastes which are technically nonwastewaters are placed in wastewater treatment systems for legitimate wastewater treatment, thereupon become wastewaters (as defined in the rules), and are treated to generate a sludge. See 58 FR at 29871, May 24, 1993 ("In the Third Third final rule, EPA stated that for characteristic wastes, each change of treatability group in a treatment train marked a new point of generation for determining if a characteristic waste was prohibited from land disposal"). Consequently, because the sludge generated in your situation would be a different treatability group from the wastewater from which it is generated, it would be considered to be a newly-generated waste that should be evaluated at its point of generation to determine if it is prohibited from land disposal. (In making this interpretation, it should be noted that the question of treatment for wastes with a required method of treatment is not at issue.)

Based on the information you have provided, the sludge generated in your

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situation would not be subject to land disposal restriction requirements because it would not be considered to be a hazardous waste. This is because U154 is listed solely due to ignitability, and wastes that are listed solely for hazardous characteristics are no longer hazardous wastes when they become part of a noncharacteristic waste mixture. 40 CFR 261.3 (a) (2) (iii). You have indicated that the contaminated groundwater becomes part of a non-ignitable wastewater mixture when it is introduced to the wastewater treatment system. Consequently, any sludge generated from treating the non-ignitable wastewater would not be derived from treatment of a hazardous waste and would not be subject to regulation as a U154 waste.

I hope you find this information helpful. If you need further assistance please call Rhonda Craig of my staff on 703/308-8771.

Sincerely,

James R. Berlow, Director  
Hazardous Waste Minimization  
and Management  
Division