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TITLE: EPA Regulation of Utility Waste

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LEVEL OF DRAFT

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

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Regulations: 40 CFR 261.4(b)(4)

Subject: EPA Regulation of Utility Waste

Addressee: Regional Directors: Air and Hazardous Materials Division; Enforcement Division; Surveillance and Analysis Division; Offices of Regional Counsel; Director, National Enforcement Investigations Center

Originator: Steffen W. Plehn, Deputy Assistant Administrator for Solid Waste, and R. Sarah Compton, Deputy Assistant Administrator for Water Enforcement

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Summary:

Pursuant to 40 CFR 261.4 (b)(4), the following fossil fuel combustion wastes are excluded from Subtitle C regulation and are regulated under Subtitle D:

- (a) Fly ash, bottom ash, boiler slag and fuel gas emission control wastes resulting from: (1) the combustion solely of coal, oil, or natural gas; (2) the combustion of any mixture of these fossil fuels; or (3) the combustion of any mixture of coal and other fuels, up to a 50 percent mixture of such other fuels.
- (b) Wastes produced in conjunction with the combustion of fossil fuels, which are necessarily associated with the production of energy, and which are mixed with and co-disposed or co-treated with fly ash, bottom ash, boiler slag, or flue gas emission control wastes from coal combustion.

The §261.4(b)4 provision includes but is not limited to the following wastes:

- (1) boiler cleaning solutions,
- (2) boiler blowdown,
- (3) demineralizer regenerant
- (4) pyrites, and cooling toward blowdown.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DATE: FEB 16 1981

SUBJECT: EPA Regulation of Utility Waste

FROM: Steffen W. Plehn, Deputy Assistant
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TO: Regional Directors --
 Air and Hazardous Materials Division
 Enforcement Division
 Surveillance and Analysis Division
 Offices of Regional Counsel (see list)
 Director, National Enforcement Investigations Center

Attached is a copy of a letter which provides interpretation of EPA's regulation of solid wastes from fossil fuel combustion. This letter, addressed to Mr. Paul Emier of the Utility Solid Waste Activities Group on January 13, 1981, interprets the language contained in §261.4(b)(4) of the May 19, 1980 regulations for Hazardous Waste Management, implementing Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA).

In those regulations, we published an exclusion from Subtitle C regulation for those fossil fuel combustion wastes which were the subject of then pending Congressional amendments. The language of the exclusion in §261.4(b)(4) is identical to pertinent language of Section 7 of the Solid Waste Disposal Act Amendments of 1980 (P.L. 96-482) which was enacted on October 21, 1980 and which mandates that exclusion. Specifically the exclusion language of our regulations provides that the following solid wastes are not hazardous wastes:

"Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels."

In the January 13 letter, EPA interpreted this exclusion language to mean that the following solid wastes are not hazardous wastes:

- (a) Fly ash, bottom ash, boiler slag and flue gas emission control wastes resulting from (1) the combustion solely of coal, oil, or natural gas, (2) the combustion of any mixture of these fossil fuels, or (3) the combustion of any mixture of coal and other fuels, up to a 50 percent mixture of such other fuels.
- (b) Wastes produced in conjunction with the combustion of fossil fuels, which are necessarily associated with the production of energy, and which traditionally have been, and which actually are, mixed with and co-disposed or co-treated with fly ash, bottom ash, boiler slag, or flue gas emission control wastes from coal combustion.

This provision includes, but is not limited to, the following wastes:

- (1) boiler cleaning solutions,
- (2) boiler blowdown,
- (3) demineralizer regenerant,
- (4) pyrites, and
- (5) cooling tower blowdown.

This exclusion from hazardous waste regulation applies only until such time as EPA studies the environmental effects of disposal of these wastes and makes a determination as to how they should be managed. The utility industry will be assisting EPA in the collection of such information. In the meantime, utility waste is regulated as a solid waste, subject to RCRA Subtitle D criteria.

After receipt of information from the utility industry, our current interpretation of the fossil fuel combustion waste deferral may be revised. In the meantime, however, the guidance provided to Mr. Emmer represents EPA's position on this issue. I urge each of you to study carefully the details of and rationale behind the guidance, and make the appropriate persons on your staff aware of it. If you have any questions on this issue or on the letter itself, please contact John Heffelfinger, in the Office of Solid Waste, at (202) 755-9206.

Attachment

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