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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

MAY 1991

2. Regulation of Municipal Waste Combustion (MWC) Ash

Two cities have recently constructed combustion facilities to manage municipal solid waste. The first city has an energy recovery plant, while the second has a non-energy recovery incinerator. Both units generate a fly and bottom ash. Would these types of ash be subject to RCRA hazardous waste egulation if the ash exhibited a toxicity characteristic?

No. The ash would not be subject to the 40 CFR 261.24 toxicity characteristic (TC) regulation. The Clean Air Act Amendments of 1990 were enacted on November 15,1990; Section 306, entitled "Ash Management and Disposal," established that for a period of two years after the date of enactment, MWC ash from "solid waste incineration units" would not be regulated as a RCRA Subtitle C waste should it exhibit a hazardous waste characteristic of ignitability, corrosivity, reactivity, or toxicity in 40 CFR Part 261, Subpart C. (Note: MWC ash would not be regulated as a hazardous waste in 40 CFR Part 261, Subpart D since it is not a listed source.) The term "ash from solid waste incineration units burning municipal waste" includes fly and/or bottom ash from both energy recovery and incineration facilities managing municipal waste. During the two year moratorium, however, MWC ash would be subject to: 1) current federal regulations in 40 CFR Part 257 governing the disposal of solid waste, 2) state regulations governing solid waste disposal; and 3) state regulations governing municipal waste combustion ash disposal or utilization/reuse, where they exist. See also Environmental Defense Fund, Inc. v. Wheelabrator Technologies, Inc., Docket No. 90-7437 (2d Cir. April 24,1991).

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