

**Utility Solid Waste Activities Group**  
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**U S W A G**

September 2, 2003

Via Electronic Filing

EPA Docket Center  
(EPA/DC)  
EPA West, Room B102  
1301 Constitution Ave., NW  
Washington, D.C. 20460

Re: Comments on Recovered Materials Advisory Notice,  
Docket ID No. RCRA-2003-0013

Dear Sir or Madam:

The Utility Solid Waste Activities Group (“USWAG”)<sup>1</sup> is pleased to respond to EPA’s request for public comment to its notice of data availability (“NODA”) regarding comments and proposed revisions to the Agency’s Recovered Materials Advisory Notice IV (“RMAN IV”) for nylon carpets. 68 Fed. Reg. 42,040 (Jul. 16, 2003). USWAG strongly opposes EPA’s proposed revisions insofar as they would exclude coal fly ash from the RMAN IV for nylon carpet. *Id.* at 42,043 at table note 4. The proposed exclusion of coal fly ash (1) would eliminate an important incentive for diverting coal ash from disposal to use in the manufacture of nylon carpets and (2) is completely contrary to EPA’s on-going programs to increase the beneficial use of coal combustion products (“CCPs”), including coal fly ash.

USWAG has been a strong advocate for expanding the Agency’s Comprehensive Procurement Guidelines (“CPGs”) as a means to avoid waste disposal by encouraging the increased use of recovered/recycled material in new product manufacturing. See e.g., USWAG’s Comments Supporting CPG Product Designations dated October 26, 1998 (supporting EPA’s CPG/RMAN III proposals) and October 29, 2001 (supporting EPA’s CPG/RMAN IV proposals). USWAG has also committed significant time and resources to help

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<sup>1</sup> USWAG is a consortium of the Edison Electric Institute (“EEI”), the American Public Power Association (“APPA”), the National Rural Electric Cooperative Association (“NRECA”), , and approximately 80 electric utility operating companies located throughout the country. EEI is the principal national association of investor-owned electric power and light companies. APPA is the national association of publicly-owned electric utilities. NRECA is the national association of rural electric cooperatives. Together, USWAG members represent more than 85 percent of the total electric generating capacity of the United States and service more than 95 percent of the nation’s consumers of electricity.

the Agency organize and implement the Coal Combustion Products Partnership (“C<sup>2</sup>P<sup>2</sup>”), a joint government-industry effort to promote the beneficial use of CCPs and to reduce regulatory and market barriers to CCP use in commercial products.

EPA’s proposal to exclude coal fly ash from the RMAN IV for nylon carpet eliminates an important incentive for reusing coal fly ash. Nationwide utilities produce approximately 68 million tons of fly ash per year. American Coal Ash Association, *2001 Coal Combustion Product (CCP) Production and Use (Short Tons)*. The Agency has recognized the many beneficial uses of fly ash, including use as a mineral filler in the production of commercial products. See, e.g., EPA, *Report to Congress on Wastes from the Combustion of Fossil Fuels*, vol. 2, at 3-37 (1999).<sup>2</sup> As noted in comments filed by USWAG member the Southern Company (“Southern”) and Boral Material Technologies (“Boral”), the use of coal fly ash as a mineral filler in carpet manufacturing is an important means for some utilities to avoid unnecessary disposal of coal fly ash. EPA’s proposed revisions to the RMAN IV for nylon carpeting removes the incentive for this beneficial use of coal fly ash without any explanation or justification.

Given the Agency’s recent commitment to promoting increased resource recovery through its Resource Conservation Challenge and particularly with respect to CCPs through its C<sup>2</sup>P<sup>2</sup> program, EPA’s express exclusion of coal fly ash from use as filler in nylon carpeting without even a single word of explanation in the NODA is beyond comprehension. By all outward appearances, EPA has committed itself in the C<sup>2</sup>P<sup>2</sup> program to removing barriers to increased utilization of CCPs, while at the same time the NODA indicates that EPA is itself introducing new barriers to increased use of coal fly ash. That surely makes no sense, so we necessarily must conclude that the proposed exclusion was inadvertent. It is obviously not too late to rectify this inappropriate exclusion and synchronize the CPG program with the C<sup>2</sup>P<sup>2</sup> goal of increasing the beneficial use of coal fly ash.

We appreciate your consideration of USWAG’s comments and those filed by Southern and Boral. We urge the Agency to reconsider its proposed revisions to the RMAN IV for nylon carpeting and revise that proposal as recommended by Southern and Boral so as to expressly allow the counting of coal fly ash toward the recovered content of nylon carpet for CPG purposes. If USWAG can respond to any questions or be of further assistance to EPA, please contact our Executive Director, Jim Roewer (202-508-5645) (jim.roewer@uswag.org).

Sincerely,



Stephen L. Pattison  
Chairman, USWAG Policy Committee

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<sup>2</sup> Fly ash and other CCPs have long been used in numerous other applications, such as a cement substitute in construction applications such as highways, airport runways, dams, tunnels, bridges, and buildings. CCPs are also used in other applications such as wallboard, masonry block, asphalt, structural fill, agricultural soil stabilization, grouting, substrate materials for artificial reefs, roofing granules, blasting grit, stabilization of metals in soils, and snow and ice control. EPA, *Report to Congress on Wastes from the Combustion of Fossil Fuels*, vol. 2, at 3-34 to 3-38 (1999).