

USWAG 1997 RESULTS & BENEFITS **Highlights of Accomplishments and Activities**

USWAG has continued its regulatory advocacy and legislative technical support on key solid and hazardous waste, PCB and hazardous materials transportation issues of importance to its members. While USWAG is continuing to pursue long-term core issues - e.g., the Bevill Phase II regulatory determination, the PCB mega-rule, remediation waste reform, preserving the nonhazardous status of penta-treated wood and obtaining regulatory relief for mixed waste -- this document highlights some of the immediate results and benefits that USWAG members have obtained in 1997.

- **Confirmation That Boiler Chemical Cleaning Wastes Can Be Aggregated Prior To RCRA Testing** -- In April, USWAG was successful in convincing EPA to clarify that electric utilities can aggregate the separate rinses from boiler cleaning operations prior to determining the RCRA status of these waste streams. As a practical matter, this confirmation significantly decreases the likelihood that boiler chemical cleaning wastes will test hazardous under RCRA and will save USWAG members hundreds of thousands of dollars in avoided hazardous waste management costs per boiler cleaning.
- **Exclusion From DOT Hazardous Material Training Requirements For Electric Utility Shipments** -- In response to USWAG's rulemaking petition, DOT created a new regulatory designation -- "materials of trade" -- including most hazardous materials handled by electric utility service crews. USWAG members that handle or transport only "materials of trade" will no longer be subject to DOT's hazardous materials training requirements, which will eliminate the need for up to 20 hours of training every three years for utility line crews and other service personnel.
- **EPA Deferral Of Calling-In RCRA Part B Permits For USWAG Members Storing Mixed Waste On-Site** -- In response to continuing efforts by USWAG to eliminate the dual regulation of radioactive/hazardous mixed waste ("mixed waste"), EPA agreed in May to defer the calling-in of RCRA Part B permits at USWAG member facilities storing mixed waste on-site until EPA determines whether to issue a general exclusion from RCRA for mixed waste. Avoiding the preparation, submission and implementation of a RCRA Part B permit has saved individual USWAG member companies as much as \$250,000 to \$500,000.

- **Non-Hazardous Status Of Used Oil Mixtures Preserved** -- In June, USWAG obtained a final court victory preserving the status of EPA's used oil mixture rule, which allows USWAG members to mix used oil with characteristic hazardous wastes (e.g., mineral spirits, degreasers, and other ignitable wastes) and manage the resulting mixture as non-hazardous used oil. Due to this victory, members will not have to rely on costly hazardous waste recyclers and will save tens of thousands of dollars annually in used oil management costs.
- **EPA Agreed With USWAG Regarding The Scope Of The Used Oil Specification Exclusion** -- In September, EPA fully agreed with USWAG that the presence of PCBs in electric utility used oil does not prevent the oil from qualifying for RCRA's used oil exclusion. This clarification -- which corrected the position of several EPA Regions -- allows USWAG members to continue to exclude qualified used oil fuel from RCRA's used oil management standards, potentially saving individual USWAG members tens of thousands of dollars annually.
- **Adoption Of ASTM Standard Guide For The Use Of Coal Combustion Byproducts In Structural Fills Finalized** -- Largely through the efforts of USWAG, ASTM adopted a permanent standard that will expand the opportunities for USWAG member companies to utilize coal combustion byproducts in structural fill applications. This standard will support members' efforts to beneficially utilize coal ash, thereby avoiding disposal costs as well as extending the life of existing coal ash disposal facilities.
- **EPA Commitment To Evaluate RCRA Mixed Waste Exclusion** -- In a legal settlement reached in April, USWAG obtained from EPA a legally-binding commitment to propose a contingent management exclusion from RCRA for NCR-regulated mixed wastes. This commitment provides USWAG with a concrete mechanism for obtaining its long-standing goal of eliminating the dual regulation of mixed waste and the duplicative and costly controls under RCRA's permitting and corrective action programs that result from this dual regulation.
- **Treated Wood And Subpart CC Strategic/Compliance Assistance** -- In response to numerous member inquiries, counsel provided USWAG member companies with memoranda detailing compliance strategies with regard to EPA's hazardous waste air emission rules and federal requirements applicable to in-service treated wood poles. USWAG members also received talking points to assist their response to public and media inquiries related to the NCAMP "Poison Poles" report. These membership services provided member companies with industry-specific regulatory guidance and strategic/public relations support, and avoid additional legal/public relations fees.

- **EPA Agrees That Off-Site Ash Management Units Are Not Subject To TRI Reporting** -- USWAG successfully persuaded EPA staff that off-site ash management units at which no combustion of coal or oil takes place are not covered facilities under the new EPA rule that requires coal and oil-burning utilities to report releases and other data under the TRI Reporting Program. This ruling saves affected utilities the costs of collecting data for TRI reports and the burdens of addressing difficult public communications issues resulting from the poorly designed TRI reporting requirements for land-based ash management activities.

- **EPA Agrees That Ash Destined For Reuse Is Excluded From TRI Release Reporting** -- Agreeing with USWAG's position that the TRI program should create incentives to the use of ash in commercial products and the fact that uses of ash in construction are seasonal in large parts of the country, EPA ruled that ash that has been placed in a land-based management unit would not be counted towards the quantity of TRI chemicals released if the company had a binding contract at year-end for the use of the ash and the reclamation and use occurred before the TRI report for that year was due on July 1 of the following year. Utilities that have been successful in developing uses for their ash will be able to reduce the quantities of TRI chemicals that must be reported as having been released into the environment.

- **EPA Agrees To Retain The Utility Boiler Co-Burning Option For MGP Wastes** -- When EPA issued its approval letter for this strategy developed by EEI in 1993, EPA expressly reserved the option of revisiting the lawfulness of this strategy when the Agency subjects MGP wastes to the land disposal restrictions ("LDRs") program. That rulemaking is currently pending, and MGP wastes will likely be subject to LDRs shortly after April 1998. However, EPA has informally advised USWAG that USWAG does not plan to revisit the lawfulness of the strategy in that rulemaking and the co-burning will continue to be an option for MGP site remediation. Coal-burning utilities with boilers capable of co-burning MGP wastes with coal will continue to benefit from this relatively low cost remedial option and those companies that are able to employ this option will thereby avoid any compliance obligations with the LDRs that will become applicable to MGP wastes in 1998.

- **Individual Member Counseling** -- USWAG counsel continued to provide members with limited individual counseling on an array of regulatory issues, ranging from day-to-day hazardous waste and PCB compliance questions to large-scale remediation strategies. Additional information, in the form of technical and legal analyses of proposed and final regulations, reduces members' burden of tracking Federal rules and provides members with time to meet requirements of new and revised regulations. This service, which is included as part of USWAG membership, provides USWAG members with prompt, specialized and cost-effective legal advice, avoiding the need for additional counsel/consulting fees.

- **Leveraging Resources** -- USWAG continues to leverage the value of members' dues in developing and implementing advocacy positions and generating technical data through participation in coalitions, strategic alliances, co-funding and use of EPRI tailored collaboration programs. For example, in 1997 USWAG contributed only a fraction of the costs for preparing detailed comments in support of industry's position for EPA to develop real-world RCRA exit levels for low-risk hazardous wastes.