

Utility Solid Waste Activities Group
c/o Edison Electric Institute
701 Pennsylvania Avenue, NW
Washington, DC 20004-2696
202-508-5645

U S W A G

1998 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, 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 1998.

- **EPA Affirms the Regulatory Viability of the Utility Boiler Co-Burning Option for MGP Wastes** — In response to USWAG comments and meetings with Agency staff, EPA clarified that the LDR Phase IV final rule, while imposing land ban treatment standards on manufactured gas plant wastes, does not alter the EPA-approved strategy of co-burning MGP remediation wastes and coal in a utility boiler. The ash resulting from the co-burning of MGP wastes and coal remains covered by the Bevill Amendment and is not regulated under RCRA Subtitle C. *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 can employ this option will thereby avoid the costly compliance obligations of the LDR program.*
- **EPA Provides Flexibility in LDR Compliance for MGP Remediation Activities** — In response to USWAG correspondence and meetings with Agency staff, EPA issued an interpretative letter on August 21, 1998, that provides parties remediating MGP sites and state regulatory overseers with a road map for preserving flexible remedial options without violating the new stringent land disposal restrictions. The letter allows the consolidation of MGP waste or soils in “areas of contamination” prior to characterization and provides for flexibility in handling de-characterized MGP waste or soils to facilitate treatment. *This interpretive guidance provides USWAG members remediating MGP sites with a mechanism for maintaining pre-LDR flexibility in their remediation of MGP sites, potentially saving hundreds of thousands of dollars of unnecessary LDR compliance costs per site.*
- **EPA Provides Greater Flexibility for Remediation Waste Management Activities** — In response to comments and advocacy by USWAG and other industry groups, EPA included several provisions in the final Hazardous Waste Identification Rule for Contaminated Media that should increase flexibility for remediation sites and reduce cost. The final rule provides a new, streamlined permitting option for remediation sites, permits the use of “staging piles” for storage of remediation waste during cleanups, and expands the availability of Corrective Action Management Units to remediation-only sites. *These provisions create more options for USWAG-member site managers to conduct on-site remediation activities with greater regulatory certainty and without triggering costly RCRA corrective action requirements.*
- **Expansion of Point of Generation Clarification for Boiler Chemical Cleaning Wastes to Permanent Tanks** — In response to a lawsuit brought by USWAG, EPA issued a supplemental notice earlier this year reaffirming that the various rinses from a boiler cleaning operation constitute a single waste stream when aggregated together in either temporary collection tanks or permanent collection tanks. *As a practical matter, this aggregation practice decreases the likelihood that boiler chemical cleaning wastes will test hazardous at the point of generation and will save USWAG members hundreds of thousands of dollars in avoided hazardous waste management costs per boiler cleaning.*
- **Extension of Mixed Waste Enforcement Policy** — USWAG was successful in obtaining another extension of the mixed waste enforcement policy until October 31, 2001 (beyond the time when EPA is scheduled to issue its final rule on the mixed waste contingent management option). The policy establishes a reduced enforcement policy for violations of the RCRA land ban storage prohibition for mixed wastes for which there are no available treatment or disposal options. *As a result, USWAG members are under a reduced threat of enforcement and fines, which can amount to \$25,000 per day.*

- **EPA Dissuaded from Issuing RCRA Section 3007 Letters Requesting Mixed Waste Generation and Storage Information** — Earlier this year, USWAG staff and counsel were successful in persuading EPA's Enforcement Office not to issue RCRA Section 3007 information request letters to individual USWAG members regarding company-specific mixed waste handling practices. EPA was interested in this information for purposes of deciding whether to extend the mixed waste enforcement policy. USWAG offered to voluntarily collect the information from the targeted USWAG members and provide it to EPA in order to save the USWAG members from the practical and legal implications of receiving a RCRA Section 3007 information collection order. *As a result, the targeted USWAG members did not have to incur the costs and associated burdens of responding to a RCRA order.*
- **EPA Expands Superfund Reporting Exemption for Coal and Coal Ash Piles** — In response to joint comments filed by USWAG and other utility industry groups, EPA expanded the exemption for reporting releases of radionuclides to exclude all coal and coal ash piles. *As a result, USWAG members are under a reduced threat of enforcement and fines involving releases known to pose virtually no threat to human health and the environment but in the absence of the exemption potentially would have required release reporting notices to the National Response Center.*
- **Avoided Additional Restrictions on the Use of Pentachlorophenol-Treated Wood, PCBs and Heptachlor** — USWAG staff and counsel were successful in securing favorable language in a United Nations Protocol controlling Persistent Organic Pollutants under the Long Range Transboundary Air Pollution Convention. As a result, USWAG members will not face requirements to eliminate the use of pentachlorophenol-treated wood poles; will not be subject to removing PCB-containing electric equipment from service; and will be able to continue to use heptachlor for the control of fire ants in closed electric junction boxes. *USWAG members will avoid hundreds of thousands of dollars of additional operational expenses and electric equipment and utility pole replacement costs.*
- **Reduced Requirements for Certain Wastes in PCB Mega Rule** — After years of effort on the development of the PCB mega rule, USWAG obtained some important regulatory benefits in the final rule. While acknowledging that the final rule contains some new regulatory requirements, it also provides important regulatory relief in some areas. For example, the rule offers new and more flexible disposal options for PCB bulk product wastes, including disposal options for lighting ballasts and cable. USWAG was also successful in persuading EPA to retain many of the beneficial "use" assumptions applicable to electrical equipment. Finally, the rule offers potentially significant cost savings for the disposal of large volumes of contaminated media, provided certain procedural requirements are met.
- **Receipt of Interpretive Letter Regarding Compliance with New PCB Storage for Reuse Requirements and PCB Assumption Rule as Applied to Small Transformers** — As a direct result of USWAG's ongoing legal challenge to the PCB mega rule, EPA issued an interpretive letter in August to USWAG counsel providing helpful guidance on complying with the (1) new storage for reuse recordkeeping requirements for PCB Articles and (2) PCB Transformer Assumption rule as applied to "small transformers." EPA clarified first that records on PCB Articles stored for reuse do not have to be ready for inspection until July of the following year (in effect, allowing 10 months for compliance). EPA also clarified that electric utilities could use "best engineering judgment" in determining whether small transformers fall within the PCB Transformer Assumption, in lieu of having to test or visually inspect each one of the potentially millions of small transformers in service. *This latter clarification alone will potentially save individual USWAG members tens, if not hundreds, of thousands of dollars in testing and labor costs.*

- **Avoided Costs of Not Being Subjected to EPA Surface Impoundment Study** — As a result of USWAG comments and meetings between USWAG representatives and EPA staff, the Agency will *not* be distributing to the electric utility industry a lengthy questionnaire regarding the management of non-hazardous wastes in surface impoundments. This study is being undertaken by EPA pursuant to the Land Disposal Restrictions Flexibility Act and is designed to evaluate whether additional controls are needed for surface impoundments managing non-hazardous waste. *USWAG members will avoid substantial costs in dollars and resources in not having to respond to this voluminous and time-consuming surface impoundment management questionnaire.*
- **Regulatory Compliance Workshops** — USWAG members were able to obtain detailed, tailored regulatory compliance information from participation in workshops on the LDR Phase IV Rule and the PCB Mega Rule.
- **Individual Member Counseling** — USWAG counsel continued to provide members with 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 1998 USWAG contributed only a fraction of the costs for preparing information on the generation and management of mixed radioactive-hazardous waste by the electric utility industry in support of a conditional exclusion from RCRA. Similarly, USWAG has contributed only a fraction of the costs for promoting RCRA remediation waste reform and the development of the regulatory exit levels under the Hazardous Waste Identification Rulemaking.

For more information about USWAG membership, contact:

Jim Roewer
USWAG Program Manager
202/508-5645
jroewer@eei.org

Celeste Heery
USWAG Coordinator
202/508-5643
cheery@eei.org