

---

# ***RCRA Box 485***

*Prepped by Ryan Dugan*

---

*Document Number:*

**159) FF2P-L0026**

---

*Docket Number:*

**F-99-FF2P-FFFFFF**

## United States Senate

WASHINGTON, DC 20510

March 31, 2000

The Honorable Carol M. Browner, Administrator  
US Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Dear Administrator Browner:

It is our understanding that EPA is recommending that certain fossil fuel combustion wastes be regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA). This appears to represent a dramatic change in the Agency's position from the detailed Report to Congress on this subject submitted on March 31, 1999. We are interested in learning why the Agency is making a recommendation that differs significantly from the 1999 Report and we would like to know the scientific basis supporting this decision.

As you know, the 1999 Report to Congress prepared by EPA generally concluded that state regulatory programs currently manage these fossil fuel combustion wastes in an environmentally-responsible manner and that the combustion wastes do not warrant regulation under RCRA. Specifically, the report stated that co-managed combustion wastes generally are not corrosive, reactive, ignitable or toxic, and that disposal of these wastes should remain exempt from RCRA Subtitle C regulation.

It is important to note that a decision not to regulate coal combustion wastes at the federal level will not leave these materials unregulated. They will continue to be managed under state solid and industrial waste programs. EPA's own analysis points out that these wastes are being appropriately managed under state regulatory authority. In fact, the 1999 Report to Congress indicates that state regulations addressing coal combustion wastes have become increasingly more stringent since the initial report to Congress in 1988 and since the Bevill Amendment was originally enacted.

As you know, the administrative process at issue is the final "regulatory determination" on fossil fuel combustion wastes required by the 1980 "Bevill Amendment" to RCRA. The Bevill Amendment required EPA to conduct a detailed and comprehensive study to determine whether there are any adverse effects on human health and the environment from the use and disposal of fossil fuel combustion wastes. Congress detailed eight areas of inquiry and required EPA to reach a reasoned "regulatory determination" based on these eight study factors. It is important to note that EPA solicited and received input from all interested parties (including the States, Federal agencies, industry, and environmental interest organizations) throughout the study period and following issuance of the Report to Congress in March 1999.

Bevill Determination  
Page 2

In our view, a decision to regulate these wastes at the federal level may have a significant impact on our nation's supply of electricity. Additionally, this decision could have a significant impact on the Federal government, many universities, the manufacturing sector, and other entities that generate electricity and dispose of coal combustion byproducts. In light of recent spikes in domestic energy costs, it is especially important that any regulatory decisions that could further exacerbate an already serious problem be based on a solid scientific record.

As such, we would appreciate knowing the state of the Administration's deliberations on this matter. If the final decision differs from the recommendations included in EPA's 1999 Report, we urge you to provide Congress with a detailed accounting of the reason(s) for this decision. Finally, we request that you provide this information to Congress before the April 10 deadline for making this final regulatory determination.

Thank you for your consideration of this matter.

Sincerely,

Ken L...

Frank W. ...

Byron ...

Barbara ...

Blank R. ...

Richard Shelby

Harry ...

Cluck ...

Michael B. ...

Eric ...

Wayne ...

Paul ...

Bevill Determination  
Page 3

Bice Frost

Albrey

Ed Adams

Tom Bunn

John Warner

Grant Lett

David Bunn

Craig Thomas

Tom Rodey

Bob King

Robert C. Boyd

Gary Hollings

Ray Bailey Hutchison

T. Hutchison

Tom Vasche  
Bob McConell

John Edwards

Max Cleland

Adrian Baez

Robert A. Melcher

John H. ...