

**So94 edcom**

### **What Environmental Protection Agency?**

In the wake of the "paradigm shifts" of the past several years, the MSW world seemed to have surfaced in a saner, more rational era. After the rash of preemptive directives that kept things stirred up throughout the recycling and landfiling world, the leaders at EPA seemed content to let things percolate while they set sight on today's panacea for waste... volume based collection. Trying to bring order out of the earlier chaos, administrators and regulators in the recycling and landfiling arena ditched their rose-colored glasses and worked hard to tailor their actions to the needs and budgets of jurisdictions under their authority. It is tempting to attribute this welcome approach to the recognition that any system -- particularly our system -- works better when all the parts are engaged.

Among indicators of the change I would call attention to the softening of support for the German approach to source reduction and recycling. While this approach to social and environmental problems has its adherents, authoritarian schemes seem to elevate our natural resistance to coercion to heights of creativity all too sadly lacking in the pursuit of such positive goals as minimizing environmental impacts or diverting waste away from landfills. Other signs of hope are found in the enlightened approach that states such as Oregon, Ohio, Texas, and California are taking toward diversion goal attainment by the jurisdictions under their authority. Indeed, they are actively pursuing ways to assist in the process. There are dozens of similar examples, so why with all this enlightenment floating around does EPA still find it necessary to muddy its waters with political activism posing as science?

EPA's concerns are our concerns and all participants in MSW management activities share in a particularly vital role in the trench warfare of environmental pursuits. EPA should take a critical look at a number of its positions and policies. It should look in terms of their effectiveness in meeting objectives within the reasonable constraints of time and money and as to their origin and scientific validity. For starters EPA's administrators might evaluate the agency's position on the following questions: (1) Is there an underlying anti-combustor bias that impedes or precludes an even-handed evaluation of the WTE component of MSW management? (2) Do the thoughts and findings of program experts within the agency receive the same degree of attention as those of the administrator's political advisors? (3) Are the mixed signals issued in connection with air programs (where a concerted attempt was made to get consensus on the Maximum Achievable Control Technology [MACT] regulations for MSW combustors) an indication of fundamental indecision or do they mask a separate agenda? The MACT rule called for by the 1990 Clean Air Act Amendments and originally scheduled for 1991 (then successively bounced to September 1993 and now September 1, 1994) may provide insight into the question.

### **EPA Needs Its Ashes Hauled.**

EPA's solid waste program people -- and I fear far too many working professionals throughout the field -- have been curiously silent following the Supreme Court's Environmental Defense Fund vs. the City of Chicago municipal waste combustion (MWC) ash case decision. For years, EPA refused to look into the question of whether MWC was or wasn't exempt from hazardous waste regulation. Because of the agency's silence on the matter the result was uncertainty but not a lot of confusion. You and other waste managers figured that while EPA could afford to take its time, something had to be done with the trash that continued to turn up at the curb even in the absence of firm guidance. Three years ago, when EPA released a memo stating its belief that MSW combustor ash was exempt, it must have seemed that you had been handed title to another disposal option. Then came the lawsuit and subsequent decision leading beyond uncertainty to confusion. At this juncture, EPA's policy makers performed a breathtaking 180° reversal, leaving you and the entire field (including many of their own programs people) up in the air.

The issue boils down to whether MSW ash is to be regulated under Subtitle C or Subtitle D. Under the new guidelines, the ash must be tested for the presence of hazardous components. The ash is composed of two separate waste streams, bottom ash and fly ash. If testing shows the ash to be non hazardous, it can be sent to the landfill ... not a problem. It's when the ash test comes back hazardous that the problems begin. If the MSW combustor ash is regulated under Subtitle D, it can be cleaned up on site and when it meets non hazardous standards it can be sent to an MSW landfill for disposal. If Subtitle C rules pertain, however, not only will the ash have to be taken to a hazardous waste facility, but the combustor itself is in violation of Subtitle C regulations that prohibit the "dilution" of a hazardous waste by mixing or combining it (in this

case bottom ash with fly ash). If this is the tack EPA intends to take, testing capable of conforming to Subtitle C regulations will have to take place within the confines of the combustor. The consequences of this are mind-boggling. Not only would the cost of retrofitting combustors be enormous, it's hard to see what would be gained in the exercise.

### **Mixing Politics and Science Makes For Good Neither**

What's going on here? Are we really talking about mixing and/or combining bottom and fly ash as a strategy for diluting hazardous waste? Does MSW combustor ash have to fall into the clutches of Subtitle C because it represents a threat to health and safety? If so, where's the evidence? Or are we witnesses to a case of agency administrators seizing on an opportunity to snake another waste stream into the hazardous side of the house? I am mystified ... particularly when I try to figure out why the agency presses for a solution that seems to contradict its own commitment to recycling?

In its present operational mode, EPA seems to base its actions on expediency and politically correct junk science rather than the cold, hard light of objective inquiry. Now the agency proposes to restructure itself along risk-assessment (rather than pollutant) lines while punting enforcement activities into the hands of industry where entrenched interests will be free to lobby their own protection. Whatever merits lie in restructuring remain to be seen, but turning enforcement over to industry smacks of asking the fox to guard the hen house. The consequences of EPA actions are too important to root them in political expediency. It's time for all of us -- including the administrator -- to question the wisdom and efficacy of mixing politics and science and ask whether the present EPA should be disbanded in order to allow a needed separation of these forces.

### **Pull Quote**

EPA's policy makers performed a breathtaking 180° reversal, leaving you and the entire field up in the air.