

Honorable Gary A. Condit
House of Representatives
2234 Rayburn Building
Washington, D.C. 20515-0518

Dear Congressman Condit:

I am writing in response to your April 28, 2000 letter to Administrator Browner and your constituent Jana Nairn's letter of April 17, 2000 concerning tire derived fuel (TDF) and the regulation of fossil fuel combustion wastes under the Resource Conservation and Recovery Act.

On April 25, 2000, the Environmental Protection Agency completed its decision on the regulatory status of fossil fuel combustion wastes. The decision applies to wastes from the combustion of coal, oil and natural gas. It also applies to co-burning these fossil fuels with supplemental fuels such as TDF, but only when the supplemental fuels comprise less than 50% of the total fuel feed.

Our overall decision was that none of the fossil fuel combustion wastes should be regulated as hazardous wastes. Moreover, we concluded that coal combustion wastes, including those from co-burning supplemental fuels with coal as described above, that are disposed in landfills and surface impoundments and also when placed in mines should be regulated as non-hazardous wastes. The Agency also concluded that, except for placement of coal combustion wastes in mines, no additional regulation of the beneficial uses of fossil fuel combustion wastes is necessary.

The Agency's decision on fossil fuel combustion wastes was published in the *Federal Register* on May 22, 2000. A copy is enclosed. The decision is also available along with other background information on fossil fuel combustion wastes at the following EPA web site: www.epa.gov/epaoswer/other/fossil/index.htm.

We are not sure that the fossil fuel combustion waste decision is applicable to the cogeneration facilities referred to by Ms. Nairn because we do not know whether they burn only TDF or supplement their fossil fuel (e.g., coal) with TDF. As described above, if the fossil fuel component (e.g., coal) of the total fuel at a combustion facility is at least 50%, then our decision is applicable to the combustion wastes from the facility. We would be glad to discuss this further with your staff and your constituent to clarify the

applicability of our decision to the facilities to which Ms. Nairn refers. If you would like to discuss this matter more fully, please have your staff contact Mr. Dennis Ruddy of my staff at (703) 308-8430.

Thank you for your interest in our recent regulatory determination and for sharing the concerns expressed by your constituent.

Sincerely yours,

Elizabeth A. Cotsworth, Director
Office of Solid Waste

Enclosure

RO 11452