

REGULATORS AND THE ENVIRONMENT  
The National Waste Management Association  
1992

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## EPA Ash Memorandum

### Abstract

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Since the passage of the Resource Conservation and Recovery Act in 1976, the Environmental Protection Agency (EPA) has articulated a number of conflicting policies with respect to the classification and disposal of municipal waste combustion ash. One policy cited the household waste exclusion provision as implying an absolute exemption from consideration as a hazardous waste; the other identified the obligation of the generator to test his ash and to dispose of it as a hazardous waste should it fail a characteristic test. When states failed to follow the latter practice, the Environmental Defense Fund (EDF) sued in U.S. District Courts in Chicago and New York. Both courts denied the EDF argument but the Chicago ruling was overturned by the U.S. Court of Appeals in November 1991. When the City of Chicago petitioned for Certiorari before the U.S. Supreme Court, the U.S. Solicitor General was asked to provide a briefing. EPA Administrator Reilly's memo of September 18, 1992 supports the exclusion of municipal combustion ash from classification as a hazardous waste.

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