



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

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September 16, 2013

Barnes Johnson, Acting Director
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (5301P)
Washington, D.C. 20460

**Re: June 13, 2013 New Hampshire Department of Environmental Services
*Request for Regulatory Interpretation on the Management of Spent
Baghouse Filters From Waste-to-Energy Facilities***

Dear Mr. Johnson:

The Department has recently learned that on June 13, 2013, the New Hampshire Department of Environmental Services (NHDES) requested that the U.S. Environmental Protection Agency (EPA) make a regulatory determination whether EPA's February 3, 1995, Notice of Statutory Interpretation (60 FR 6666); and the March 22, 1995, Revised Implementation Strategy (1995 Guidance) issued to implement the U.S. Supreme Court decision in City of Chicago v. EDF apply to spent baghouse filter bags at waste-to-energy (WTE) facilities.

It is the Department's understanding that a standard practice at Florida WTE facilities for disposing of spent baghouse filter bags is to double-bag them within the baghouse, transport the containerized filter bags to the beginning of the combustion building, and then feed them directly into the combustion units. NHDES is essentially asking EPA whether this management practice of the spent baghouse filter bags is included in the "four walls" exemption interpretation in the 1995 Guidance and thus not subject to regulation as a hazardous waste, or whether it is not included in the exemption and thus subject to regulation as a hazardous waste. Based on the Department's participation in the process that led to the 1995 Guidance, and our regulatory oversight of eleven WTE facilities in Florida that manage approximately 4.7 million tons of municipal solid waste in Florida annually, we believe this industry practice for managing spent baghouse bags is included in the "four walls" exemption and not subject to regulation as a RCRA Subtitle C hazardous waste.

Our view that baghouse filter bags are covered by the 1995 Guidance is supported by EPA's statement in the February 3, 1995, Federal Register that "it is reasonable to conclude that Congress intended to exempt all handling of any hazardous waste within the building, including the handling of hazardous ash." (60 FR 6668). This statement recognizes that "ash" is not the only potentially-hazardous waste that could be managed within the four walls of a WTE facility

without triggering Subtitle C. So, even though spent baghouse filter bags are not specifically mentioned in EPA's 1995 Guidance, they should be included within the "four walls" exemption. Also EPA's 1995 Guidance states that a key issue for evaluating where the point of generation for WTE ash occurs beyond the "four walls" is whether or not management practices allow fly ash to be "exposed to the environment". In Example 4 of the 1995 Guidance, EPA explains that "exposed to the environment" could be the discharging of fly ash from air pollution control equipment into open roll-off containers. The Department believes that the double-bagging practice used by WTE facilities to encapsulate spent baghouse filters effectively prevents fly ash from being exposed to the environment. Subsequent thermal destruction of the encapsulated baghouse filters in the WTE combustors ensures that any residual fly ash in the spent filter bags is then controlled by the facility's air pollution control systems. Thus, we believe that the referenced practice of double bagging baghouse filters for incineration is consistent with the "four walls" exemption as the ash is not "exposed to the environment."

In conclusion, the Department believes that EPA's 1995 Guidance includes the management of spent baghouse filter bags at WTE facilities, where managed as described above, and encourages EPA to maintain this environmentally sound practice that has worked very well in Florida since 1995. If you have any questions or require any additional information, please feel free to contact Richard Tedder, P.E. at (850) 245-7835, or myself at (850) 245-8709. Richard and I can also be reached by email at Richard.Tedder@dep.state.fl.us or John.Coates@dep.state.fl.us, respectively.

Thank you for your consideration of this important matter.

Sincerely,



John A. Coates, P.E.
Assistant Director
Division of Waste Management

cc: Randy Miller, OGC Senior Attorney
Richard Tedder, P.E., Program Administrator
Tim Bahr, Program Administrator
Jorge Caspary, P.G., Division Director
Jeff Littlejohn, P.E., Deputy Secretary