



Legal Considerations Pertaining to Use and Disposal of Coal Combustion By-Products¹

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Synopsis

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§ 11.01. Introduction.

Coal is the most significant fuel source for electrical power generation, accounting for more than 50 percent of electricity produced in the United States.² In its recent report to Congress³ on wastes from the combustion of fossil fuels, the United States Environmental Protection Agency (EPA) reported that utility coal usage results in the generation of approximately one hundred million tons of large volume coal combustion by-products each year.⁴ EPA reports that non-utility or industrial coal combustion units generate an additional six percent (six percent) of that amount.⁵ The U. S. Department of Energy has indicated that although limited new coal-fired capacity is expected through 2020, coal consumption by utilities is expected to increase due to increased utilization of existing generating capacity.⁶ Although the Department of Energy projects only modest growth in coal use by non-utilities, the DOE forecasts do not project a decrease in the generation of coal combustion byproducts. Therefore, a significant quantity

² *Annual Energy Outlook, 1999 with Projections to 2020*. U. S. Department of Energy, Office of Integrated Analysis and Forecasting (December, 1998), cited in *Wastes from The Combustion of Fossil Fuels*, United States Environmental Protection Agency, EPA/530-S-99-010 (1999) at 2-2.

³ *Wastes from the Combustion of Fossil Fuels*, United States Environmental Protection Agency, EPA/530-S-99-010 (1999). See 64 *Fed. Reg.* 22820-22821 (1999) regarding availability of report.

⁴ *Id.*, Vol. 2, at 2-3.

⁵ The non-utility sector encompasses a wide variety of industrial, commercial and institutional facilities. Some of these facilities use fossil fuels to generate power, heat or steam for use in the manufacturing process, while others, including retail, assembly, warehouse and office establishments, utilize coal for heating, cooling, ventilating, lighting, cooking, refrigeration and powering office equipment.

⁶ *Id.*