



Scott Segal <ssegal@bracepatt.com>  
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Record Type: Record

To: Edward A. Boling Energy Task Force/CEQ/EOP  
cc: See the distribution list at the bottom of this message  
Subject: Energy-Recovery Permitting: NEW TASK FORCE SUBMISSION

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To the Energy Streamlining Task Force,

Attached, please find a submission for Task Force review regarding permitting procedures currently in place regarding certain industrial furnaces engaged in energy recovery programs. The submission is made on behalf of the Cement Kiln Recycling Coalition. These furnaces are cement kilns utilizing waste-derived fuels as partial substitution for fossil fuels, effecting positive results for energy conservation, carbon control, and environmental protection. At present, EPA regions are using guidance documents to impose "site-specific risk assessments" that constitute a regulatory moving target, forcing uncertainty and delay for energy recovery programs.

Thanks for your consideration of this matter. For your convenience, we have also place a copy of the document in the body of this e-mail. This document is filed pursuant to Executive Order 13212. For more information, please respond to this document or contact me at:

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You can also contact CKRC directly at:

Michel R. "Mike" Benoit  
Michelle G. Lusk  
Cement Kiln Recycling Coalition  
1730 K Street, NW - Suite 710  
Washington, DC 20006  
(202) 466-6802  
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October 26, 2001

Chairman Jim Connaughton  
Council on Environmental Quality  
Executive Office of the President  
Attn. Task Force  
17th and G Streets, N.W.

Washington, D.C. 20503

VIA ELECTRONIC TRANSMISSION

Re: Comments for Energy Streamlining Task Force

Dear Chairman Connaughton:

Pursuant to Executive Order 13212, it is our understanding that the Council for Environmental Quality acts as chair of the interagency task force on streamlining energy permits. Today, we are notifying you of the interest in streamlined permitting of certain cement-kiln facilities that utilize waste-derived fuels. It is our hope that task-force attention to this matter can improve agency processes and enhance energy-recovery projects as intended in the Executive Order.

Name of the Project(s)

Cement Kiln Recycling Coalition ("CKRC") member-company energy recovery projects.

Entity Proposing the Project

Eleven member plants comprise CKRC member-company energy recovery projects. These plants are listed in Appendix I.

Category of the Project

Energy Generation and Conservation of Fossil Fuels: Recovering Energy from Waste

Brief Description of the Project

CKRC member cement-plants are manufacturing facilities that combust hazardous waste as an alternative fuel in their cement kilns. The cement industry currently uses over one million tons of hazardous waste a year as an alternative fuel, replacing expensive and non-renewable fossil fuels such as coal. Cement kilns also recover energy from other energy-bearing wastes such as scrap tires. About 35 million scrap tires per year are consumed as fuel in United States cement kilns. Hazardous waste and tires burned as fuel in cement kilns are a one-for-one replacement for coal, the primary fossil fuel used in kilns. Burning 1 million tons of waste per year in cement kilns conserves 1 million tons per year of non-renewable fossil fuels.

Agency or Agencies That Must Be Consulted

U.S. Environmental Protection Agency ("EPA"), particularly the Office of Solid Waste and Emergency Response ("OSWER") and the regional EPA offices in which certain member-plants are located.

Reason for Bringing the Project to the Task Force's Attention

The energy-recovery projects discussed above are regulated under the Boiler and Industrial Furnace ("BIF") rule under the Resource Conservation and Recovery Act ("RCRA"). The same facilities have recently become subject to Maximum Achievable Control Technology ("MACT") standards under the air-toxics provisions of the Clean Air Act. Despite the extensive regulatory controls placed on member-plants under both programs, EPA regional offices have required member-plants to conduct so-called multi-pathway indirect site-specific risk assessments ("SSRAs") as part of the permitting process. There is no statutory or regulatory authority for requiring SSRAs. Their only basis derives from policies established under Administrator Browner's 1993 Hazardous Waste Combustion Strategy. In implementing this policy, EPA regions have injected arbitrary and frequently changing SSRA requirements into the permitting processes at CKRC member-cement plants. In certain cases, EPA regions have required that SSRAs be used to demonstrate the absence of unidentified emissions, thus forcing applicants to prove a negative and adding significant cost and delay to the permitting process. The only description of these SSRA "requirements" appears in a series of guidance documents that have no basis in existing law or regulation. Despite repeated requests by the regulated industry, EPA has consistently refused to subject its SSRA protocols to proper rulemaking; thus putting EPA in the position of demanding through guidance what it has failed to expose to proper rulemaking.

By encumbering the permit process and greatly increasing costs, EPA's SSRA guidance significantly and

adversely affects our industry's energy recovery activities, thus forcing cement plants to utilize more natural resources, such as coal. In compliance with existing emissions standards, cement kilns present no unacceptable risks to human health and the environment. Accordingly, our members' permitting activities should not be subjected to these additional arbitrary requirements, as they are unnecessary, time-consuming, and expensive, and yield no environmental benefit. Also, this guidance creates tremendous regulatory uncertainty, thus undermining the continued stability of waste-fuel programs. If forced to comply with the permit requirements set forth in the guidance, CKRC's members could either be inappropriately forced to cease their hazardous waste burning or forced to incur greater compliance costs than are legally necessary or appropriate, making waste-fuel programs less economically viable.

While CKRC brings this issue to the Task Force's attention on behalf of cement kilns that recover energy from waste, it is important to remember that many industrial sectors use a variety of waste-derived fuels. Unduly cumbersome permitting procedures endanger energy conservation and energy recovery programs across a broad spectrum of industries. Therefore, it is important to resolve the SSRA issue as soon as possible.

#### Suggestions for Improving Federal Agency's Process

CKRC believes that EPA has ensured the safe operation of member-plants by promulgating state-of-the-art RCRA regulations and Clean Air Act emissions standards for cement kilns that recover energy from waste. The use of SSRAs injects a degree of cost, delay and uncertainty into the permitting process that jeopardizes the economic viability of waste-fuel programs. EPA should be instructed to stop this unauthorized practice, as it does not contribute to environmental protection and it can adversely affect energy conservation.

If EPA wishes to persist in using SSRAs, then SSRA protocols, methodologies, and their applicability should be subject to full notice-and-comment rulemaking. If EPA believes that SSRAs serve a useful purpose, that purpose will be enhanced by actual rulemaking in conformity with program statutes and with the Administrative Procedure Act. Relying on SSRAs without the benefit of rulemaking undermines the careful balance of the permitting program while affording no additional environmental protection.

Thank you for your attention to this matter. We look forward to working with you and the Task Force.

Very truly yours,

Michel R. Benoit  
Executive Director

#### APPENDIX I

Ash Grove Foreman, AR  
Ash Grove Chanute, KS  
Continental, Hannibal, MO  
Giant (keystone) Bath, PA  
Giant, Harleyville, SC  
Holnam, Clarksville, MO  
Holnam, Artesia, MS  
Holnam, Holly Hill, SC  
Lonestar, Greencastle, IN  
Lonestar, Cape Girardeau, MO  
Texas Industries, Midlothian, TX



Message Copied To:

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Karen Y. Knutson/OVP/EOP  
Craig Felner/WHO/EOP

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