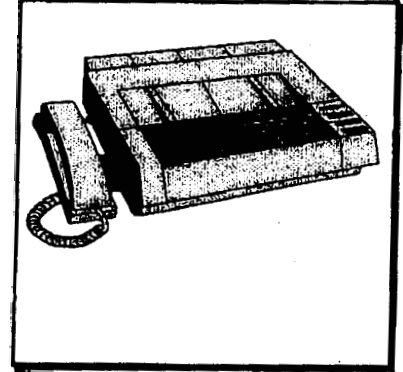




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MESSAGE: THIS IS A HARD COPY OF PREVIOUSLY E-MAILED
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RE: 67 FR 60 @ P. 1501
DRAFT REPORT TO CONGRESS OF
THE COSTS AND BENEFITS OF
FEDERAL REGULATIONS -
REQUEST FOR COMMENTS

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VIA ELECTRONIC MAIL**May 28, 2002**

John Morrall
Office of Information and Regulatory **Affairs**,
Office of Management and Budget, NEOB, Room 10235
725 17th Street, NW
Washington, DC 20503

RCRA Information Center
Office of **Solid** Waste (5305G)
U.S. EPA Headquarters, Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0002

RE: Draft Report to Congress on the Costs **and** Benefits of Federal Regulations - Notice **and** Request for Comments **&** Resource Conservation and Recovery Act Burden Reduction Initiative - Proposed Rule (Docket No. F-1999-IBRA-FFF)

On behalf **of** the Region 7 **EIF** Work Group (Work Group), I **am** writing in response to the Office of Management **and** Budget's request for recommendations for reform of federal regulations (**67** FR 60 at p. 15014, March 28, 2002) (hereinafter "OMB Request"). The **Work** Group **has** been meeting with **EPA** Region 7 and various state agency personnel periodically since 1994 to exchange information regarding the implementation of Resource Conservation and Recovery Act (RCRA) regulations affecting the management **and** use of hazardous waste-derived fuel (HWF). The Work Group currently consists of seven companies with interests in HWF supply **and** combustion. Member companies include Ash Grove Cement, Lafarge North America Cement, Continental Cement, HOLCIM (US), Lone Star Industries, Systech Environmental Corporation, **and** Safety-Kleen.

We recently became aware of EPA's RCRA Burden Reduction Initiative (**67** FR **12** at p. 2518, **January** 17, 2002) (hereinafter "Initiative") and generally support the objectives set **forth** in the **January** 17 proposed rule with regard to **the** reduction of record keeping burdens for boilers and industrial *furnaces*. However, since the official comment period for the **January** 17 proposed rule closed before we became aware **of** the Initiative, we **are** submitting this request to the docket for the Initiative as well as to the OMB to document our general support for certain RCRA burden reduction initiatives proposed by **EPA** and to request consideration of additional RCRA record keeping reforms in the context of the OMB Request. The following information **is** presented in accordance with the format set forth in the OMB Request.

REGULATING AGENCY

United States Environmental Protection Agency

CITATION

See attached table.

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AUTHORITY

Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. §6901 et seq.)

DESCRIPTION OF PROBLEM

As evidenced by the attached table, commercial transportation, storage, and disposal facilities (TSDFs) are subject to a myriad of compliance documentation record keeping requirements. Cement manufacturing facilities **and** HWF management interests, such **as** those operated by Work Group member companies, are currently obligated to retain the majority of the required compliance documentation information until closure of the facilities or until closure of affected hazardous waste management units (e.g., cement **kilns** that burn hazardous waste as fuel). The majority of the HWF management and cement manufacturing facilities using HWF have been subject to the RCRA record keeping obligations for 10 to 15 **years**. **As a** result, the storage of tens **of** thousands of records **has** required **the** expenditure of significant resources in terms of man-hours, space, and information technology (IT). Moreover, it is **our** understanding that some state agencies (because of the numerous "keep until closure" record retention requirements) are requiring affected facilities to deliver their entire operating record to the state agency upon closure of a HWF facility or management unit!

Records stored on paper are especially resource-intensive, requiring dedicated space and personnel to archive and maintain them. Most, if not all, of the **Work Group** facilities are using electronic media in **an** attempt to reduce the burdens associated with the indefinite retention of records. However, the use of electronic media does not sufficiently alleviate the costs associated with the indefinite retention of these records because:

- it is not cost-effective or practical to transfer to, or maintain **all** records in, an electronic **format**;
- electronic media storage hardware **and** software technology is evolving at a rapid pace, thus rendering IT equipment obsolete every **3** to 5 years or so; and
- in some instances, electronic information is not retrievable after a relatively short time period unless obsolete equipment and systems are maintained.

We believe that, with few exceptions, the information required **by** the record keeping obligations **summarized** in the attached table has **a** limited usefulness or "shelf life", **and** that retention of the records beyond that limited time is unnecessarily burdensome.

The record keeping burdens **are** particularly significant for the Work Group member company Continental Cement due to its small business status.

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E I T I O N

Keeping in mind the exceptions **and** additional proposals noted below, the Region 7 BIF Work Group respectfully requests that EPA finalize the RCRA record keeping burden reduction proposals set **forth** in the **January 17, 2002** proposed rule with regard to boiler **and** industrial furnace (BIF) **records** and operating record standards. See 67 FR 12 at **p. 2529** col. 1 and **2**. There **is** regulatory precedent for shorter record retention time periods. For example, some RCRA requirements (e.g., inspection records) must be maintained for only 3 years. **And**, under the Clean Air Act, important national emission standards for hazardous air pollutant (NESHAP) compliance documentation must be retained for **5** years (see 40 CFR part **63**, subpart EEE, sec. 63.1211(c) **and** 40 CFR part 63 subpart **A**, sec.63.10 (b)). It **is** our considered opinion that a 3-year retention requirement is more **than** adequate to allow for regulatory **authorities** to inspect the operating records of affected facilities and evaluate compliance with applicable regulations.

Exceptions and Additional Proposed Solutions

First, the Work Group is in favor **of** the proposal to change the record retention requirements for all records required to be kept by BIF facilities to three years, thereby bringing the requirements in **line** with the majority of other RCRA record retention periods. However, the Work Group also requests that **EPA** review the record retention periods for other HWF management facilities and **units** to determine if there are other instances where a 3-year retention requirement would be appropriate.

Second, the Work Group is also in favor of most of the proposed changes to the operating record requirements of 40 CFR part 264, subpart E, section **264.73** and 40 CFR part 265, subpart E, section 265.73. However, with regard to sections 264.73 and 265.73 (b)(6), we request that **EPA** review the monitoring, testing, or analytical data and **corrective** action records required **by** the therein referenced 40 CFR part 264 and 265 parts to determine if there **are** other instances where a **3-year retention requirement** would be appropriate.

Finally, the Work Group requests that EPA reconsider its **proposal** to continue to require the retention of the latest closure cost estimate **and** the latest adjusted closure cost **estimate** in the facility operating record pursuant to sections **264.73/265.73 (b)(8)**. For example, see 40 CFR part 264, subpart H, section 264.142(d). We suggest that it **is** unnecessary to retain **any** closure cost estimate other **than** the most accurate or current cost estimate.

ESTIMATE OF ECONOMIC IMPACTS


The Work Group has not gathered any quantitative information regarding the economic burden of the **RCRA** record retention requirements currently applicable to its member companies. However, **hundreds** of man-hours and thousands of dollars are expended annually to generate and **archive** the required compliance records, and our members are now charged with the retention of tens of thousands of documents. The office space, **man-hours**, and capital that must

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be expended to retain records until closure of **an** affected HWF **facility** or management unit (**and** to deliver the operating record to **a** state regulatory **authority**, if required) are significant.

Thank **you** for this opportunity to nominate regulatory reforms **and** document **our** support of EPA's RCRA Burden Reduction **Initiative**.

Sincerely,


REGION 7 BIF WORK GROUP
Robert J. Schreiber, Jr. P.E.

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**RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)/INDUSTRIAL FURNACE
RECORDKEEPING OBLIGATIONS¹**

Citation	Brief Description	Retention Requirements*
266.102(8)(i)(A)/266.103(j)(1)(i)	Monitor and record feed rates and composition for hazardous waste (HW), other fuels, feed stocks, and feed rates of metals and total chloride/chlorine	Until closure of the boiler or industrial furnace (BIF) unit
266.102(8)(i)(B)/266.103(j)(1)(ii)	Monitor and record carbon monoxide (CO), hydrocarbon (HC), and oxygen (O ₂) stack gas concentration on a continuous basis.	Until closure of the BIF unit
266.102(8)(i)(C)/266.103(i)(1)(iii)	Sample and analyze HW, other fuels, feed stocks, residues, and exhaust emissions upon the request of the Director	Until closure of the B E unit
266.102(8)(iii)/266.103(j)(2)	Daily visual inspection of BIF and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) for leaks, spills, fugitive emissions, and signs of tampering	Until closure of the BIF unit
266.102(8)(iv)/266.103(j)(3)	Conduct operability verification for automatic waste feed cut off (AWFCO) system and associated alarms at least once every seven days or once every 30 days if documented demonstration exists that weekly inspections will unduly restrict or upset operations	Until closure of the BIF unit
266.111(d)(2)	For direct transfer where vehicles will be located within 50 feet from the property boundary, a written certification must be obtained from the local Fire Marshall that installation meets National Fire Protection Association, Inc. (NFPA) codes	Until closure of the BIF unit
266.111(e)(2)	Written assessment reviewed and certified by a qualified, registered professional engineer (P.E.) regarding direct transfer equipment	Until closure of the BIF unit

¹ This list is intended to illustrate the scope and magnitude of the RCRA recordkeeping requirements and is not intended to be a comprehensive list of applicable requirements. As such, this list should not be relied upon in lieu of an actual review of potentially applicable RCRA regulations.

Citation	Brief Description	Retention Requirements*
266.111(e)(3)(i) and (ii)	Records of inspections during direct transfer of HW	At least 3 years from the date of inspection
266.111(e)(4) and 265.192(a)	For design and installation of new direct transfer equipment, a written assessment by an independent, qualified, registered P.E. is required attesting to the structural integrity	Until closure of the BIF unit
266.111(e)(4) and 265.192(b)	Prior to placing a new direct transfer equipment in use, inspection is required by an independent, qualified installation inspector or a registered P.E.	Until closure of the BIF unit
266.111(e)(4) and 265.192(g)	Written statements by persons required to certify the design and supervise the installation of new direct transfer equipment	Until closure of the BIF unit
266.112(c)	Conduct sampling and analysis of HW-derived residues	Until closure of the BIF unit
264.73(b)(1)	Description and the quantity of each HW received, and the method(s) and date(s) of its storage, treatment, or disposal at the facility as required by Appendix I of 40 CFR 264	Until closure of the TSDF
264.73(b)(2)	The location of each HW within the facility and the quantity at each location	Until closure of the TSDF
264.73(b)(3)	Records and results of waste analyses and waste determinations performed as specified in 264.13 (Waste analysis plan), 264.17 (General requirements for ignitable, reactive, or incompatible wastes), 264.314 (Landfills), 264.341 (Incinerators), 264.1034 (Subpart AA), 264.1063 (Subpart BB), 264.1083 (Subpart CC), 268.4(a) (Treatment surface impoundment exemption), and 268.7 (Determinations regarding waste meets or fails land ban treatment standards)	Until closure of the TSDF
264.73(b)(4)	Summary reports and details of all incidents that require implementation of Contingency Plan	Until closure of the TSDF
264.73(b)(5)	Records and results of inspections	At least 3 years from inspection

Citation	Brief Description	Retention Requirements*
264.73(b)(6)	Monitoring, testing or analytical data, and corrective action where required by 264 Subpart F, 264.19 (Construction QA program); 264.191 (Existing tank system assessments); 264.193 (Leak tests and/or assessments for tank systems); 264.195 (Tank system inspections); 264.222 (Surface impoundment action leakage rate); 264.223 (Surface impoundment, written assessment and notifications to EPA); 264.226 (Surface impoundment monitoring and inspection); 264.252 through 254 (Waste piles); 264.276, 264.278, and 264.280 (Land treatment); 264.302 through 304 and 264.309 (landfill); 264.347 (Incinerator); 264.602 (Miscellaneous units); 264.1034(c) through (f) and 264.1035 (Subpart AA); 264.1063(d) through (i) and 264.1064 (Subpart BB); 264.1082 through 264.1090 (Subpart CC)	Until closure of the TSDF
264.73(b)(7)	Notice to generators in accordance with 264.12(b) if HW is received from an off-site source	Until closure of the TSDF
264.73(b)(8)	All closure cost estimates under 264.142	Until closure of the TSDF
264.73(b)(9)**	Annual waste minimization certification	Until closure of the TSDF
264.73(b)(10) through (16)	Land ban certification under 268.8 and notice under 268.7(a)	Until closure of the TSDF
264.73(b)(17)	Records required under 264.1(j)(13) for remediation waste management site	Until closure of the TSDF
264.16(e)	Personnel training records	Until closure of the TSDF for current personnel, and at least 3 years from last work for former employees
264.71(a)(5)	Copies of the manifests for HW shipments received from off-site	At least 3 years from the date of delivery

Citation	Brief Description	Retention Requirements*
262.40(c)	Copy of manifests for shipments of HW sent to on-site or off-site TSDf	At least 3 years from the date HW was sent
262.40(b)	Keep copy of each Biennial Report and Exception Report	At least 3 years from the due date of the report
270.10(i)	Keep records of all data used to complete permit application and any supplemental information submitted	At least 3 years from the date the application is signed
270.30(j)(2)**	Retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by the permit; annual waste minimization certification; and records of all data used to complete the permit application	At least 3 years from the date of the sample, measurement, report, certification, or application

*The retention period is extended automatically during the course of any unresolved enforcement action regarding the facility, or as requested by EPA.

+*Note that retention time requirements for annual waste minimization certification under 264.73(b)(9) is until facility closure, while under 270.30(j)(2) is for at least 3 years from the date of the certification.