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To: John F. Morrall III/OMB/EOP@EOP
cc: "andyohare@apca.org" <andyohare@apca.org>
Subject: Draft Report to Congress On the Costs and Benefits of Federal Regulations," March 28, 2002 (67 FR 15014)

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California Portland Cement Company is pleased to provide the Office of Management and Budget (OMB) comments on the notice titled "Draft Report to Congress On the Costs and Benefits of Federal Regulations," which was published in the Federal Register on March 28, 2002 (67 FR 15014). The notice was published with a Report to Congress on the costs and benefits of federal regulation and requests recommendations from the public regarding the disposition of regulations proposed and promulgated by federal agencies.

California Portland Cement Company supports the comments provided by The American Portland Cement Alliance regarding Chapter IV of the Report to Congress, titled "Review of Regulations and Regulatory Programs" (67 FR 15033). In this chapter, OMB seeks nominations from commenters regarding federal agency rules that ought to be rescinded on the grounds that they are outmoded or unnecessary. OMB suggests that in developing their nominations, commenters consider whether the agency has discretion under the statute to modify or rescind the nominated rule.

APCA believes, and we concur, that it has a prime candidate for an unnecessary agency rulemaking, and one that the agency (the Environmental Protection Agency - EPA) clearly has the authority to rescind. **This** rulemaking relates to cement kiln dust (CKD), a byproduct of the Portland cement manufacturing process. It also relates to the "Bevill amendment" under the federal Resource and Conservation Act (RCRA), 42 U.S.C. §§6901 et seq.

Demonstrably, CKD is the least toxic and least risky of all Bevill wastes. For every other Bevill waste that EPA has studied and made determinations, EPA has determined that RCRA Subtitle C regulation is not warranted. For **CKD**, however, EPA has issued a determination that Subtitle C regulation is warranted and EPA has issued proposed Subtitle C regulations

for **CKD**. **APCA** has steadfastly opposed the **EPA** regulatory determination and has argued that there a Subtitle **C** rule addressing **CKD** is not remotely warranted considering the negligible risk posed by the material, the amount recycled **as** a raw material and the diminishing amount disposed of at cement plants.

Thank you for your consideration of **APCA's** comments.

Respectfully submitted,

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