



December 15, 2003

**MEMBER COMPANIES**

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Eastman Chemical Company  
Eastman Kodak Company  
Eli Lilly and Company  
Lafarge Corporation  
3M  
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Syngenta Crop Protection, Inc.  
Von Roll America, Inc.  
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**ASSOCIATE MEMBERS**

B3 Systems  
Blue Ridge Chemicals  
CEntry Constructors & Engineers  
Compliance Strategies & Solutions  
Cook-Joyce, Inc.  
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Focus Environmental, Inc.  
Franklin Engineering Group, Inc.  
Metco Environmental, Inc.  
RMT, Inc.  
SAFRISK, LC.  
Severn Trent Laboratories, Inc.  
Sigrist-Photometer AG  
URS Corporation

Attn: Docket ID Number RCRA-1999-0031

The Coalition for Responsible Waste Incineration (CRWI) is pleased to submit comments on the RCRA Burden Reduction Initiative; Notice of Data Availability (68 FR 61662, October 29, 2003). CRWI represents ten companies that operate hazardous waste combustion units and sixteen other companies with interests in hazardous waste combustion. These companies account for a significant portion of the U.S. capacity for hazardous waste combustion. In addition, CRWI is advised by a number of academic members with research interests in hazardous waste combustion. Since its inception, CRWI has encouraged its members to reduce the generation of hazardous waste. However, for certain hazardous waste streams, CRWI believes that combustion is a safe and effective method of treatment, reducing both the volume and toxicity of the waste treated. CRWI seeks to help its member companies to improve their operations and to provide lawmakers and regulators helpful data and comments.

**INDIVIDUAL MEMBERS**

Ronald E. Bastian, PE  
Ronald O. Kagel, PhD

**ACADEMIC MEMBERS**  
(Includes faculty from:)

Colorado School of Mines  
Cornell University  
Lamar University  
Louisiana State University  
New Jersey Institute of Technology  
Princeton University  
Rensselaer Polytechnic Institute  
University of Arizona  
University of California – Berkeley  
University of California – Los Angeles  
University of Dayton  
University of Illinois at Chicago  
University of Kentucky  
University of Maryland  
University of Utah

In general, CRWI supports the concept of burden reduction. CRWI recognizes that certain reporting and recordkeeping is necessary to assure the public and the regulators that facilities remain in compliance with the standards. However, there are numerous areas where reporting and recordkeeping requirements do not foster the goal of showing compliance or reassuring the public. The Agency has made credible efforts to reduce this burden and we support that effort. We urge the Agency to continue reducing the amount of reporting and recordkeeping wherever possible. CRWI's comments on the selected, specific issues in the NODA follow. The lettering of the comments corresponds to how the issues were presented in the NODA.

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A. Small Quantity Generator Tanks and Tank Ancillary Equipment Inspection Frequency.

CRWI supported the reduced inspection frequency for large quantity generators in comments on the proposed rule. CRWI agrees with the Agency that it makes little sense to inspect the tanks on one schedule and the ancillary equipment on a different schedule. In addition, it does not seem reasonable to have the inspection schedule for small quantity generators more stringent than large quantity generators. This approach is not consistent with other RCRA requirements for these two classes of generators. As such, CRWI suggests that the inspection frequency for large and small quantity generators as well as all ancillary equipment be standardized on a weekly basis.

B. Further Reduce Inspection Frequencies for Performance Track Facilities

In the original proposed rule, EPA proposed to allow "good actors" to further decrease inspection frequencies. In our comments, CRWI supported this idea. Based on comments received, EPA is re-evaluating whether to allow all generators to use this "good actor" provision or to restrict this provision to companies that participate in the National Environmental Performance Track Program. EPA is concerned that allowing all generators to use this case-by-case option will impose a burden on the authorized states to evaluate compliance with the criteria. CRWI agrees with the concept of reducing the burden to both the regulated and the regulator. However, we are not convinced that this change would accomplish what EPA intends. As long as the authorized state has already incorporated the National Environmental Performance Track Program into its program, this might be a mechanism for administering reduced inspection frequency. However, not all facilities will be able to take advantage of this program. In addition, all states may not have incorporated this program into their system. CRWI believes that restricting the "good actor" provisions to participants of this program may not achieve the desired goals of burden reduction. Similarly, some states may also have internal programs that are comparable to the National Environmental Performance Track Program. Restricting burden reduction to only federal compliance incentive programs may exclude other, equally effective state programs.

CRWI agrees that where such programs are already in place, they should be used. We also believe that restricting the "good actor" provision to any one program may become counterproductive. Should future programs be



developed, these would have to be incorporated into both the federal and state plans and regulations before they could be used. Thus, CRWI suggests that EPA revise the language to allow other current and future programs to be utilized to meet the “good actor” criteria. This approach would preclude the need for future rule changes when new or revised incentive programs become available. Perhaps EPA actually said it best in the preamble of the original proposed rule (67 FR 2527) by noting:

“We are not mandating that states offer these changes. We are only providing the option to states that are interested.”

Following the same logic, CRWI believes that EPA should not mandate to the states that a particular program is an exclusive prerequisite for burden reduction but rather allows the state to decide what justifies using the “good actor” provision following criteria already outlined by EPA in the proposed rule (see 67 FR 2527) and the NODA (see 68 FR 61665).

#### C. RCRA/OSHA Overlap in Emergency Response Training

CRWI supported removing the RCRA requirements for emergency response training where they overlapped with OSHA requirements. However, facilities that have met their OSHA requirements through a RCRA training program may want to retain their current training program. Since the requirements for both programs are the same, CRWI sees no reason to prefer one over the other. It makes sense for the Agency to allow either training scheme to meet the requirement. CRWI supports this change.

#### E. General Facility Standards

CRWI was one of the commenters on the proposed rule who suggested that only the most recent closure and post-closure cost estimates need to be retained. We still support that position and suggest that EPA revise the final rule to require keeping only the most recent closure cost estimates at the facility.

In our comments on the original proposed rule, CRWI also supported the proposed changes to the record retention of boilers and industrial furnaces from “life of the facility” to three years. We continue to support that change.

We agree with the commenter who pointed out that large amounts of data are produced as part of an incinerator operating record. There are many requirements associated with these units, and keeping records until closure is



extremely difficult because of the sheer volume of information generated. CRWI member companies have explored the use of paper records, microfiche, and long-term computer files. None of these methods are attractive. Maintaining a perfect archive of these records for the life of the facility does not enhance protecting the environment. Frequent inspection of these units makes such long-term records retention unnecessary. CRWI supports the modification of this provision to allow incinerators to have the same records retention requirements as proposed for BIF units (three years). To accomplish this, we suggest that the references to 264.347 and 265.347 be removed from the proposed language in 264.73(b)(6) and 265.73(b)(6).

#### H. Permit Modification

CRWI would like to point out that EPA has already followed this approach for more substantial facility modifications. For example, EPA added provisions for "fast-track" permit modifications for RCRA incinerators that needed to make facility changes to comply with the hazardous waste combustor MACT (40 CFR 63 Subpart EEE). These changes generally would have required either Class 2 or Class 3 permit modifications. However, the "fast track" provisions allow facilities to use the Class 1 with prior approval procedure for modifications of a facility to meet new standards. CRWI believes that changes proposed under RCRA burden reduction would be even less substantial than those already allowed under the "fast track" approach. CRWI believes that the Class 1 procedure is an appropriate mechanism to allow newly promulgated recordkeeping and reporting requirements to be incorporated into existing RCRA permits. There is no reason to keep the Class 2 or Class 3 modification procedures to modify these RCRA permit provisions. CRWI believes that this change would be consistent with the intent of this rulemaking (Burden Reduction), would prevent both EPA and relevant state agencies from reviewing a multitude of Class 2 or Class 3 permit modifications, and accomplish EPA's objectives without a sacrifice of environmental protection.



Thank you for the opportunity to comment on this proposed rule. CRWI supports reducing unnecessary regulatory burden on facilities thereby freeing resources to truly promote environmental protection. We urge EPA to continue to look for additional areas where recordkeeping and reporting can be reduced. If there are questions about our comments, please contact us (202-452-1241 or [crwi@erols.com](mailto:crwi@erols.com)).

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Melvin E. Keener', is written over a light blue horizontal line.

Melvin E. Keener, PhD  
Executive Director

cc: Robert Burchard  
CRWI members