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April 4, 2011

Attn: Docket ID No. EPA-HQ-OA-2011-0165

The Coalition for Responsible Waste Incineration (CRWI) is a trade association comprised of 26 members. All of our Full members are regulated under Subpart EEE. CRWI appreciates the opportunity to submit suggestions to EPA based on President Obama's Executive Order 13563 to periodically review existing significant regulations. EPA states their role in fulfilling this Executive Order is to "consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned."

We would like to make one suggestion on reducing the recordkeeping burden for training records. We made this suggestion as a part of the 2002 proposed Burden Reduction rule. At that time, EPA did not take our suggestion. We believe that EPA made that decision based on an improper reading of comments from state agencies. We request that EPA re-examine these comments and reconsider the length of time to keep training records. The details of our submittal and EPA's response are as follows.

In comments on the 2002 proposed Burden Reduction rule, CRWI and several others suggested that retaining training records for three years is more than adequate and suggest that EPA modify 264.16(e) and 265.16(e) to reflect this change. When the rule was finalized, this suggestion was not incorporated. EPA's reason was that comments from the states persuaded them that keeping records for the life of the facility was necessary to determine whether personnel are properly trained (see the response to comments document, volume 1, page 160). We agree that the states made a strong case for keeping the training content of the record as defined in what EPA proposed to change [264/5.16(a), 264/5.16(d)]. However,



we did not see where any state opposed changes to 264/5.16(e), length of time to keep the record. In searching both volumes of the response to comment documents, no one objected to a change in the length of time to maintain the training record. No state actually discussed any support of or objection to any change to 264/265.16(e); they were silent on the reference.

As a result, we believe that EPA was correct in that the states opposed the changes to 264/265.16(a) and 16(d) in various ways, but those references deal with the content of the training record and not the length of time that individual's training records are maintained. What is important to the states and to the Agency is that the facility met their training requirements each year. This is an annual obligation. Facilities are not required to keep operating records for the life of the facility. It seems like keeping the records showing that you met your training requirements should have the same limitations.

EPA catalogued comments by CFR reference. Even though many commenters submitted comments on 264/265.16(e), EPA did not catalogue any of those comments under that reference or respond to them in the context of that reference. These comments were grouped under comments related to 264/265.16(a) or 16(d) and responded to based on the state opposition to changes to 264/265.16(a) or (d).

None of the comments from the states directly referenced 264/265.16(e) in any fashion. The closest we could find to a remote objection was ASTSWMO (Commenter 0144 in Volume 1, page 225) in which they expressed that the records "should also continue to document the type and amount of training." However, this comment includes no reference to 264/265.16(e) and is catalogued under 264/265.16(d)-(d)(3).

In contrast, there were many non-state commenters (Lion Technologies, SOCMA, NAM, ACC, Dow, Bethlehem Steel, and CRWI) that directly referenced 264/265.16(e) and were explicit in their desire for a three year limit. In general, the EPA response was that the states persuaded them to make no changes to 264/265.16(d)(1)-(3). However, the reference under discussion was section (e), not (d).

It appears to us that EPA incorrectly assumed that state opposition to changes to (d) also included any unvoiced state opposition to changes to (e). We would like for EPA to re-examine these comments and to reconsider our and other's comments on the length of time needed to retain training records. Thank you for the opportunity to submit this suggestion. If you have any questions, please contact me at (202-452-1241 or mel@crwi.org).



Sincerely yours,

A handwritten signature in black ink, appearing to read 'Melvin E. Keener', is written over the typed name.

Melvin E. Keener, Ph.D.
Executive Director

cc: CRWI members