



September 12, 2005

MEMBER COMPANIES

Dow Chemical U.S.A.
Eastman Chemical Company
Eli Lilly and Company
Lafarge Corporation
3M
Onyx Environmental Services, LLC
Syngenta Crop Protection, Inc.
Von Roll America, Inc.
Washington Demilitarization Co.

U. S. Environmental Protection Agency
EPA West (Air Docket)
Mailcode: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

ASSOCIATE MEMBERS

Alta Analytical Perspectives LLC
B3 Systems
Blue Ridge Chemicals
CEntry Constructors & Engineers
Compliance Strategies & Solutions
Cook-Joyce, Inc.
Engineered Spiking Solutions, Inc.
ENSR
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 No. OAR-2004-0094

The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on *National Emission Standards for Hazardous Air Pollutants; General Provisions; Proposed Rule (70 Fed. Reg. 43992, July 29, 2005)*. CRWI is a trade association comprised of 25 members with interests in hazardous waste combustion. CRWI's members operate incinerators, boilers, process heaters, hydrochloric acid production furnaces, and cement kilns and are regulated under a number of MACT standards. We appreciate the effort EPA has put into this reconsideration notice and look forward to working with the Agency to develop regulations that are consistent with the requirements of the Clean Air Act and good engineering practices.

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
Mississippi 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

CRWI agrees with EPA's conclusion that startup, shutdown, and malfunction (SSM) plans are not applicable requirements and as such there is no reason for these to be submitted to the agency unless requested under Section 114(a) of the Clean Air Act. We agree with the Agency that facilities have a general duty to minimize emissions at all times, including periods of startup, shutdown, and malfunction.

We agree that a facility should have the option of not following an SSM plan under certain circumstances. It is difficult to anticipate each subtle variation that might occur for every SSM event. Facilities might find themselves in a position where the SSM plan requires an action that might not be the best course to minimize emissions. As the rule is currently written, facilities may be faced with a choice of whether to follow the best course to minimize emissions (and potentially be cited for not following

1615 L Street, NW, Suite 1350
Washington, DC 20036
Phone: 202 452-1241
Fax: 202 887-8044
E-mail: mel@crwi.org
Web Page: <http://www.crwi.org>



the SSM plan) or following their SSM plan (and failing to minimize emissions creating a potential to be cited for this action). The proposed change will allow facilities to deviate from their SSM plan where appropriate and will alleviate the situation where facilities have to choose which requirement they wish to violate. We support this proposed change.

We also agree that if a facility does not exceed the applicable emission limitations, they have met that duty to minimize emissions. In addition, we agree that if a facility does not exceed emission standards during a startup or shutdown event, there is no need to keep records of those events. We believe that the Agency has done a good job of modifying most sections of the General Provisions to implement these proposed changes.

We have one additional suggested language change that we believe that the Agency overlooked. In § 63.10(b)(2), the Agency has proposed to remove the recordkeeping requirement for startup and shutdown events that do not result in exceedances of emission limitations. We agree with this proposed change. EPA has made it clear that meeting emission limitations are sufficient to show that a facility has met the general duty clause. However, we believe that the Agency overlooked the requirement in § 63.10(d)(5)(i) that requires a facility to certify that they have followed the procedures in their SSM plan. EPA made it clear in the preamble that the requirement for a facility is to meet the general duty clause and minimize emissions, not to follow their SSM plan. As such, we suggest that § 63.10(d)(5)(i) be modified in the following manner to reflect this concept.

(5)(i) *Periodic startup, shutdown, and malfunction reports.* If actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the source's startup, shutdown, and malfunction plan (see the requirements of §63.6(e)(3)), the owner or operator shall state such information in a startup, shutdown, and malfunction report. Such a report shall identify any instance where any action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the affected source's startup, shutdown, and malfunction plan, but the source does not exceed any applicable emission limitation in the relevant emission standard. Such a report shall also include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded...



We believe this change is consistent with proposed changes to similar SSM plan language in other parts of the General Provisions. In addition, there would be a number of other benefits to this language change. First, by reporting that a facility is following their general duty versus the more specific following written procedures, there is less of a burden to maintain specific records (i.e. that a particular procedure was followed). Second, if a facility followed this general duty during an SSM event, the requirement to document that they didn't follow the SSM plan when an exceedance did not occur (the deleted statement) is clearly unnecessary. Thus, by taking action consistent with the general duty clause, the facility did the right thing. If they veered from the SSM plan, it was because the best action to take was not as specified in the Plan. It can therefore be argued that the documentation required by the deleted sentence above is "unnecessary and burdensome" and should be removed.

Thank you for considering these comments. If you have additional questions, please contact us at 202-452-1241 or mel@crwi.org.

Sincerely yours,

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

Melvin Keener, Ph.D.
Executive Director

cc: CRWI Board
Rick Colyer, EPA