



#### MEMBER COMPANIES

Dow Chemical U.S.A.  
E. I. Du Pont de Nemours  
Eastman Chemical Company  
Eli Lilly and Company  
INVISTA S.a.r.l.  
3M  
Ross Incineration Services, Inc.  
URS Corporation  
Veolia ES Technical Services, LLC

#### ASSOCIATE MEMBERS

AECOM  
Analytical Perspectives  
B3 Systems  
Compliance Strategies & Solutions  
Coterie Environmental, LLC  
Engineered Spiking Solutions, Inc.  
FLSmith CEntry  
Focus Environmental, Inc.  
Franklin Engineering Group, Inc.  
Metco Environmental, Inc.  
RMT, Inc.  
SAFRISK, LC.  
SAIC  
Strata-G LLC  
TestAmerica Laboratories, Inc.  
URS Corporation

#### 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  
Rensselaer Polytechnic Institute  
University of California – Berkeley  
University of Dayton  
University of Illinois at Chicago  
University of Kentucky  
University of Maryland  
University of Utah

May 3, 2010

RCRA Docket (2822T)  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-RCRA-2008-0678

The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on *Hazardous Waste Technical Correction and Clarification Rule*. 75 FR 12989 and 75 FR 13066 (March 18, 2010). CRWI is a trade association comprised of 25 members with interests in hazardous waste combustion. CRWI's members operate incinerators, boilers, and hydrochloric acid production furnaces that use 90-day tanks which are covered by these RCRA regulations.

At 75 FR 12994, EPA explains that the words "and tanks" were inadvertently omitted from § 262.34(a)(2) when this section of the rule was initially promulgated (March 24, 1986). EPA then points to a 2003 RCRA Call Center Monthly Report that states that the Agency intended for both containers and tanks to be labeled as hazardous waste and to have the accumulation start date displayed. Later in the direct final rule, EPA states "Today's Direct Final rule is considered to be neither more nor less stringent than the current standards." (75 FR 12999).

CRWI understands that generators must demonstrate that the accumulation time limit for 90-day tanks and containers is not exceeded. Containers are normally identified using some sort of adhesive label that indicates the accumulation start date, contents of the container, and other information. However, containers are normally used only once and thus restarting the 90-day accumulation period does not typically occur. As such, replacing any attached label is not typically necessary.

---

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>



Conversely, a tank is a permanent piece of equipment that is emptied and refilled many times (in some cases on a daily or weekly frequency). This makes them more difficult to label with information that changes frequently (e.g., accumulation start date). To comply with the as written 1986 rules, members typically spray painted their tanks with the words "Hazardous Waste" and developed some other method for documenting compliance with the 90-day accumulation period limit. Members choose not to spray paint the accumulation start date on their tanks because it would be required to be repainted at least every 90 days (and in some cases daily or weekly). Also, if an adhesive label or some other type of non-permanent method were used, it would require frequent replacement that could result in non-compliance if it were to become detached from the tank. In addition, the historical record for emptying a tank would be lost each time a label was removed or a tank date repainted. To solve this recordkeeping problem, members developed methods of gathering and retaining the required records to demonstrate that waste was accumulated in the tank for less than 90-days. Such records included documenting the accumulation start date or tank level on daily inspection forms, documenting that the maximum content of the tank was removed during each 90-day period (i.e., tank turn-over), or some other means.

It is difficult in 2010 to determine what might have been inadvertent in 1986. However, members with 90-day tanks have been complying with the as written regulations since 1986 using methods that do not require labeling the tank with the accumulation start date. To do this now would create a new requirement (with no environmental benefit). This is not allowed under the Direct Final Rule process.

We believe that the Agency did not intend to increase the regulatory requirements for 90-day tanks by making this modification in the regulatory language of § 262.34(a)(2). As such, we urge EPA to withdraw the modification to § 262.34(a)(2) from the Direct Final Rule.

Should EPA decide to modify the labeling requirements for 90-day tanks at some future date to include the accumulation start date, the Agency can do so using the normal notice and comment process for rulemaking.



Thank you for considering these comments. Please contact me (202-452-1241 or mel@crwi.org) if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Melvin E. Keener', with a long horizontal flourish extending to the right.

Melvin E. Keener, PhD  
Executive Director

cc: CRWI members  
Jim O'Leary – EPA