Coalition for Responsible Waste Incineration

MEMBER COMPANIES

Arcwood Environmental
Arkema, Inc.
Bayer CropScience
Clean Harbors Environmental Services
Eastman Chemical Company
Formosa Plastics Corporation, USA
INV Nylon Chemicals Americas, LLC
Ross Incineration Services, Inc.
The Dow Chemical Company
Veolia ES Technical Solutions, LLC
Westlake US 2, LLC

GENERATOR MEMBERS

Eli Lilly and Company

ASSOCIATE MEMBERS

ALL4 LLC
Alliance Source Testing LLC
B3 Systems
Coterie Environmental, LLC
Envitech, Inc.
Eurofins TestAmerica
Focus Environmental, Inc.
Franklin Engineering Group, Inc.
Montrose Environmental Group, Inc.
Ramboll
Strata-G, LLC
TEConsulting, LLC
Trinity Consultants
W.L. Gore and Associated, Inc.

INDIVIDUAL MEMBERS

Ronald E. Bastian, PE

ACADEMIC MEMBERS
(Includes faculty from:)

Colorado School of Mines
Lamar University
Louisiana State University
Mississippi State University
New Jersey Institute of Technology
Northern Illinois University
University of California – Berkeley
University of Dayton
University of Kentucky
University of Maryland
University of Utah

43330 Junction Plaza, Suite 164-641
Ashburn, VA 20147
Phone: 703-431-7343
E-mail: mel@crwi.org
Web Page: http://www.crwi.org

May 7, 2026

U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attn: Docket ID No. EPA–HQ–OLEM–2025–0313.

The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on the *Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Common Sense Approach to Chemical Accident Prevention*: Proposed rule. 91 FR 8,970 (February 24, 2026). CRWI is a trade association comprised of 26 members representing companies that own and operate hazardous waste combustors and companies that provide equipment and services to the combustion industry.

CRWI's general and specific comments are attached.

Thank you for the opportunity to submit these comments. If you have any questions, please contact me at (703-431-7343 or mel@crwi.org).

Sincerely yours,

Melvin E. Keener, Ph.D.
Executive Director

cc: K. Guarino, EPA

General comments

In this proposed rule, the general tone is to reduce redundancy and improve efficiency while maintaining protection for the public, facility workers, and the environment. The Coalition for Responsible Waste Incineration (CRWI) supports this goal. As CRWI and many other commenters pointed out in response to the 2022 proposed rule, a number of these requirements duplicate Occupational Safety and Health Administration (OSHA) Process Safety Management (PSM) and Process Hazard Analysis (PHA) requirements. In addition, the revisions in the 2024 final rule overlap with provisions in the Clean Water Act and RCRA. Redundant provisions only increase costs without providing any additional protection for the public, employees, or the environment.

Specific comments

#2 – Information Availability.

EPA is proposing to remove several 2024 promulgated requirements pertaining to information availability. These include:

- The requirement to provide specific chemical hazard information for all regulated processes within 45 days of a request from any member of the public that lives within six miles of the facility; and
- The requirement to provide this information in multiple languages.

CRWI supports the decisions to rescind these two requirements. As we suggested during the comment period for the 2022 proposed rule, determining whether a requestor actually lives within the six-mile radius could be problematic. Property owner databases do not reflect renters. Anyone can look up an address within six miles, use a P.O. Box as the mailing address, and request information on the chemicals being used at that site. CRWI believes that sharing information, to a certain extent, is beneficial to all parties. However, there is some information that should not be shared with the public. Examples include Confidential Business Information (CBI), trade secret information, and information that may allow groups to target facilities. EPA already has a CBI program in place to address the first issue. In addition, most of this information is already available under Emergency Planning and Community Right-To-Know Act reporting requirements. This information is also included in the current risk management plans which are available to the public.

CRWI members are more than willing to share appropriate information with the public. However, we have limited abilities to verify who is making the request. We would not be able to discern whether the inquiry is from a concerned local citizen or someone with nefarious intent. For these reasons, CRWI supports the proposal to remove the requirement to provide chemical hazard information for all regulated

processes within 45 days of a request from any member of the public that lives within six miles of the facility

CRWI is also concerned about the requirement the information be provided in the language in which it was requested. There are no limits on the number of languages. Not all information (e.g., safety data sheets) is available in the hundreds of possible languages. CRWI suggests that any information being provided should be in English. Our members have no ability to ensure the accuracy of technical data that is translated into languages that are not familiar to our employees. This can cause greater harm than good. CRWI supports the proposal to remove the requirement to provide this information in multiple languages.

#3 – Third-Party Compliance Audits.

In the 2024 final rule, the Agency required third-party audits. Now, the Agency is proposing two options to modify that requirement. Option 1 would completely rescind the third-party audit option. Option 2 would require a third-party audit after two RMP reportable incident within a five-year period. Option 2 would sunset in 10 years.

All facilities should be required to develop and implement plans to minimize accidental releases. Accidental releases are harmful to the general public as well as the facility. These releases endanger employees and equipment. No company wants to put its human and facility assets at risk. When a RMP reportable incident occurs, all facilities should be required to determine the cause of the incident, modify their plans to avoid repeating that incident, and then implement measures to prevent repeat occurrences. However, facility personnel are best suited to set up the initial plans and to modify them if and when necessary. Because they work at the facility on a daily basis, they understand better than anyone the intricacies of their operations.

As such, CRWI believes the Agency should adopt Option 1 and completely remove the third-party audit requirement. Most of the CRWI members fail to see the value in a third-party audit and believe they can conduct a better audit using in-house personnel than could be achieved by a third-party. Should the Agency feel the need to have a limited third-party audit program, Option 2 is better than what is currently in the rules. This option would allow a phaseout period and would only apply to those facilities having two RMP reportable incidents within a five year period.

#4 – Employee Participation.

CRWI believes that employee participation is a key element of a company's commitment to safety. In fact, this is already a part of Process Safety

Management (PSM) requirements under OSHA. Employees are often notified of changes through standard operating procedures (SOP), process hazard analysis (PHA), and other methods. Employees already participate in developing SOPs and PHAs reviews. In addition, stop work authority is already regulated and maintained under OSHA and incorporated into many PSM programs. As CRWI stated in our 2022 comments, this language only duplicates other requirements and does not provide additional benefits. EPA has now recognized this duplication and now proposes to rescind these provisions. We agree. As such, we support EPA's proposal to:

- Rescind the requirements for Program 2 and 3 owner/operators to provide training on the employee participation plan;
- Rescind the requirements for Program 3 owner/operators to provide employees possessing thorough knowledge of the process the authority to recommend a partial or total shutdown and allow a qualified operator in charge of the unit to partially or completely shut down a unit based on potential for catastrophic release;
- Rescind employee accident and noncompliance reporting requirement;
- Rescind Program 3 process to consult employees or address recommendations and findings of PHA, compliance audits, and incident investigations; and
- Rescind stop work authority for Program 3 processes.

Removal of all of these steps will realign the RMP program with OSHA PSM and remove duplicate requirements.

EPA is also proposing to remove the provision in 40 CFR 68.83(e) that requires the development and implementation of a process to allow "employees and their representatives to report to either or both the owner or operator and EPA unaddressed hazards that could lead to a catastrophic release..." CRWI agrees. Those processes are already in place. Any employee or their representative can contact EPA or the local permitting agency to point out unaddressed problems. There are already protections for these individuals under whistleblower provisions. The proposed language in 40 CFR 68.83(e) is redundant and should be removed.

#5—Community and Emergency Responder Notification.

The Agency is proposing to clarify that local emergency officials, not facilities, issue public alerts during accidental releases. In the 2024 final rule, the Agency incorrectly placed the primary public notification burden on regulated facilities when, in practice, local emergency management agencies and first responders are the entities with the systems, authority, and training to alert the public. In addition, EPA proposes to require RMP submissions to include the type of community notification system and the party that sends alerts. The current documentation

requirements for demonstrating a facility-responder "partnership" would also be removed.

CRWI agrees that facilities should initiate notification to appropriate local, state and federal agencies about accidental releases. However, the notification to the public is clearly in the purview of the local emergency responders as detailed in community emergency response plans developed by local emergency planning committees (LEPC). The LEPC has the procedures in place for local emergency responders to "Provide ongoing notification ... [regarding] where to access information on community preparedness, shelter in place and evacuation procedures." A regulated entity would not have the mechanism to implement this provision.

CRWI would also like to point out the Pipeline and Hazardous Materials Safety Administration has an Emergency Response Guidebook (https://www.phmsa.dot.gov/training/hazmat/erg/emergency-response-guidebook-erg) to provide case-by-case determinations on how to respond to releases. This guidebook is available to every LEPC and the public can purchase a copy.

#6 – Stationary Source Siting.

In the 2024 rule, EPA established prescriptive siting analysis language. In this proposed rule, the Agency has decided that this requirement is no longer needed. CRWI agrees. The 2024 siting language does not meaningfully change what facilities were required to analyze; it only added documentation burden without demonstrable safety benefit. There is also no reason for the requirement to formally document and justify decisions not to act on siting-related recommendations.

As CRWI stated in comments on the 2022 proposed rule, an expansion of the facility siting considerations to include proximate facilities is inappropriate. An owner/operator cannot require other facilities to provide information, especially if the other facility is not RMP covered, or is a competitor with whom sharing of confidential business information could run afoul of antitrust regulations or other requirements. As such, EPA should remove these provisions.

#7 – Natural Hazards.

The 2024 rule added specific requirements for regulated facilities to evaluate risks of natural hazards, including those associated with climate change, as well as any associated loss of power. In addition, the 2024 rule required facilities to justify when hazard evaluation recommendations relating to natural hazards were not adopted. EPA is now proposing to remove these provisions because they are redundant. CRWI agrees. We believe that the most appropriate time to consider natural hazards is during the design phase for a project. This is already required

for RCRA Subtitle C facilities. For example, 40 CFR 264.18(a)(1) does not allow building a Treatment, Storage, and Disposal Facility (TSDF) within 200 feet of a fault that has been active in the last 11,650 years. If a TSDF is built in a flood plain, that facility must be "designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood." In addition, TSDFs are required to have contingency plans that address emergency scenarios[1] not considered in the design phase. RCRA required contingency plans already address natural hazards that may be common to the area. These include storms, tornados, hurricanes, and high rainfall events. The examples cited by the TSDF requirements are good examples of the specificity necessary to ensure regulatory certainty and consistency in enforcement. CRWI believes that any additional requirements for TSDFs would be redundant and increase costs without any environmental benefit. Should the Agency decide it is needed for other industry groups, the final rule should allow similar requirements from other rules to meet this obligation.

#10 – Emergency Response Exercises.

In the 2022 proposed rule, commenters suggested that facilities should be allowed to demonstrate a good faith effort to coordinate with LEPCs or to demonstrate the absence of an LEPC as exemptions from this requirement.[2] EPA responded that it believes that it would be in the owner/operator's best interest to document efforts to engage with the LEPC in case the implementing agency requests this information.[3] However, the final rule did not specifically require the owner or operator to document unsuccessful coordination attempts.

In this proposed rule, EPA is asking for comments on whether facilities should be required to document good-faith attempts to engage local emergency responders.

A mechanism to document "good-faith" efforts to coordinate with LEPCs already exists for facilities that must meet the requirements under RCRA Subtitle C. 40 CFR 264.37(b) states "Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record." There is a similar requirement for large quantity generators in 40 CFR 262.256(b). For this industry group, an additional requirement to document efforts to coordinate with LEPCs would be redundant and unnecessary. From our perspective, the Agency does not need to include any additional requirements to document efforts to engage local emergency responders. Should the Agency decide it is needed for other industry groups, the final rule should allow similar requirements from other rules to meet this obligation.

[1] 40 CFR Part 264 Subpart D.
[2] 89 FR 17,668, March 11, 2024.
[3] 89 FR 17,669.