



# NASTTPO Annual Training Workshop

Office of Emergency Management  
Rebecca Broussard

# Agenda

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RMP Final Rule and Updates

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PFAS Rulemaking

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Animal Waste Air Emissions under EPCRA Section 304 ANPRM

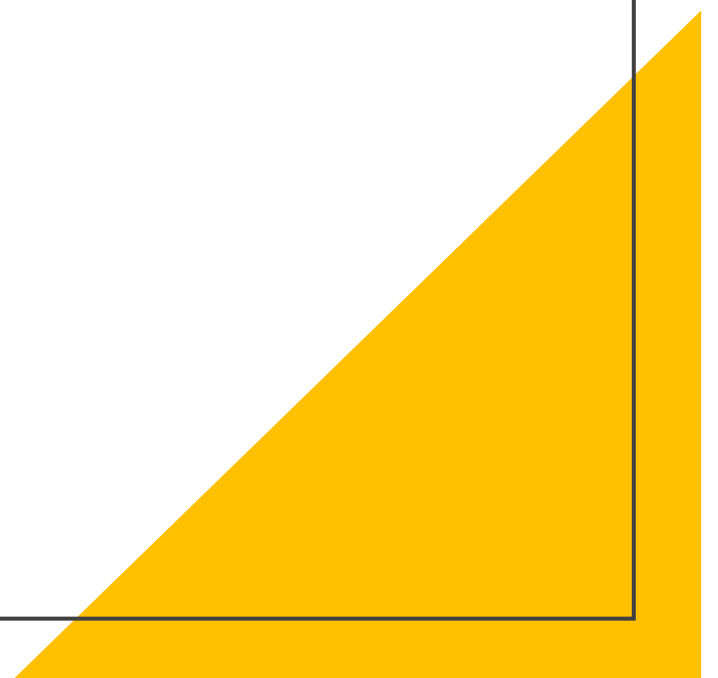
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CWA Hazardous Substance FRP Final Rule

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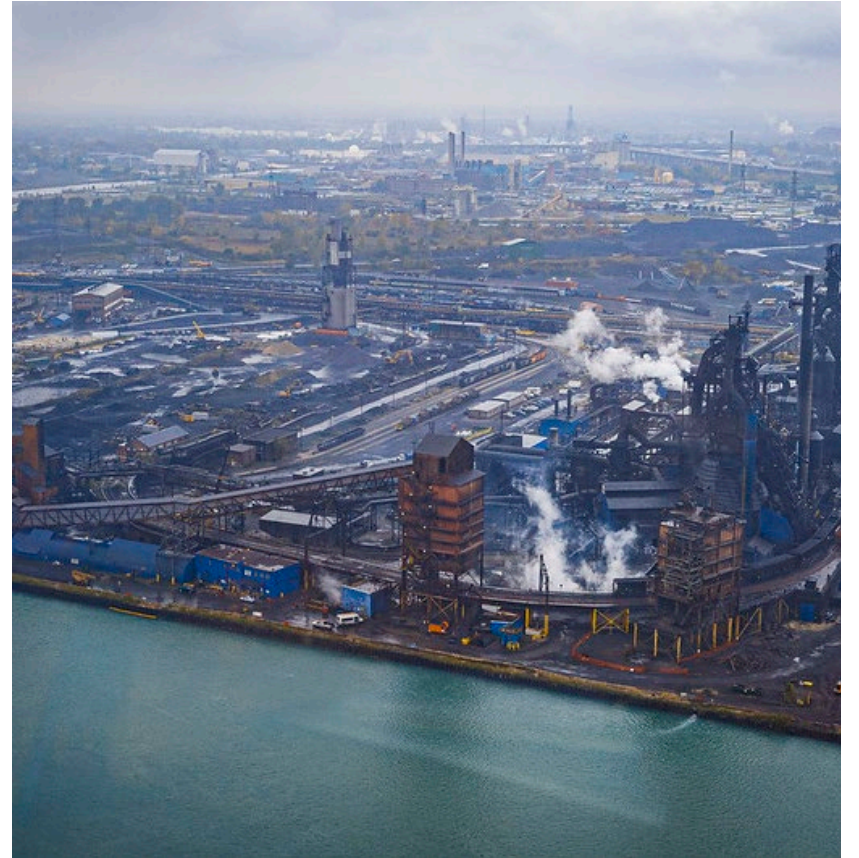
# Risk Management Program (RMP) Updates



# RMP Rule Background

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- December 2019 – EPA published the RMP Reconsideration final rule, finalizing changes to the January 2017 RMP Amendments rule.
- EPA **rescinded** amendments relating to:
  - safer technology and alternatives analyses,
  - third-party audits,
  - incident investigation root cause analysis,
  - information availability, and
  - several other minor regulatory changes.
- EPA **modified** amendments relating to local emergency coordination, emergency exercises, and public meetings, and changed the compliance dates for some of these provisions.



Coming Due:  
RMP Provisions  
from 2019 Rule  
that Rescinded  
(most of) 2017  
Rule

What	Due Date
Public Meetings	Within 90 days of any qualifying accident that occurs after March 15, 2021
Develop Emergency Response Programs	Within three years of owner or operator determining that facility is subject to the provisions
Develop exercise plans and schedules	December 2023
Conduct first notification drill	December 2024
Conduct first tabletop exercise	December 2026
Conduct first field exercise	According to the exercise schedule established by the owner or operator in coordination with local response agencies
Submit RMP with new information elements	The owner or operator would provide new information elements with any initial RMP or RMP resubmission made after December 2024.
Comply with new emergency coordination requirements	Already in effect as of September 21, 2018
Comply with remaining minor accident prevention provisions	Already in effect as of September 21, 2018

# RMP Information Sharing Under EPCRA

Information is available to the public and local emergency responders under EPCRA:

- Facility name and location
- Emergency contact information
- Name of hazardous chemical at the facility above the threshold
- Amount of the hazardous chemical (including the max amount on any single day and average daily amount)
- Max number of days the hazardous chemical is present at the facility
- Type of storage and storage conditions
- Precise location of the hazardous chemical at the facility

Local emergency responders can obtain “other information necessary for developing and implementing the local emergency response plan.”

# RMP Rule Update

**February 27, 2024** – EPA Administrator signed the Safer Communities by Chemical Accident Prevention Final Rule, designed to further protect vulnerable communities from chemical accidents, especially those living near facilities with high accident rates (published March 11, 2024).

# RMP Rule Update, Cont.

- Requires a safer technologies and alternatives analysis, and in some cases, implementation of reliable safeguard measures for certain facilities in industry sectors with high accident rates.
- Advances employee participation, training, and opportunities for employee decision-making in facility accident prevention, for example:
  - Reiterating the allowance of partial or complete process shutdowns in the event of a potential catastrophic release.
  - Implementing a process to allow employees and their representatives to anonymously report specific unaddressed hazards.
- Requiring third-party compliance audits and root cause analysis incident investigation for facilities that have had a prior accident.
- Enhancing facility planning and preparedness efforts to strengthen emergency response by ensuring chemical release information is timely shared with local responders and a community notification system is in place to warn the community of any impending release.
- Emphasizing the requirement for regulated facilities to evaluate risks of natural hazards and climate change, including any associated loss of power.
- Increased transparency by [providing access](#) to RMP facility information for communities nearby.



# PFAS Rulemakings and Destruction & Disposal Guidance

# PFOA, PFOS, their salts and structural isomers Listing Under CERCLA

## **FINAL RULE:**

On April 17, 2024, EPA Administrator signed the final rule designating two per- and polyfluoroalkyl substances (PFAS), perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers as hazardous substances under CERCLA.

- Any entity that releases a pound or more of PFOA or PFOS, or their salts or structural isomers, in any 24-hour period must report those releases consistent with CERCLA 103 and EPCRA 304 and their implementing regulations.
  - Immediate Notification to the National Response Center,
  - Immediate Notification to the SERC or TERC, and LEPC or TEPC [Established Notification System(s)]
  - Follow-up written report to the SERC or TERC, and LEPC or TEPC

Federal Register Notice is expected to be published in a few days. Effective date of the rule is 60 days after FR publication.

## **Proposed Rule:**

<https://www.epa.gov/superfund/proposed-designation-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos>

# National Primary Drinking Water Regulation (NPDWR) PFAS Chemicals

EPA finalized a National Primary Drinking Water Regulation (NPDWR) establishing legally enforceable levels, called Maximum Contaminant Levels (MCLs), for six PFAS in drinking water. <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as ng/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

# PFAS NPDWR Final Rule

## Final Rule Requires:

- Public water systems must monitor for these PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.
- Public water systems have five years (by 2029) to implement solutions that reduce these PFAS if monitoring shows that drinking water levels exceed MCLs.
- Beginning in five years (2029), public water systems that have PFAS in drinking water which violates one or more of these MCLs must take action to reduce levels of these PFAS in their drinking water and must provide notification to the public of the violation.

# PFAS Destruction & Disposal Guidance (Interim Guidance 2024)

## **The Interim guidance updated 2020 version:**

Identifies available and effective methods to remediate, dispose of, and destroy PFAS contamination. It provides information on the current state of science and associated uncertainties for three large-scale capacity technologies that can destroy PFAS or control PFAS release into the environment: thermal destruction, landfills, and underground injection.

<https://www.epa.gov/pfas/interim-guidance-destroying-and-disposing-certain-pfas-and-pfas-containing-materials-are-not>

# Animal Waste Emissions & EPCRA Section 304





# Current Status

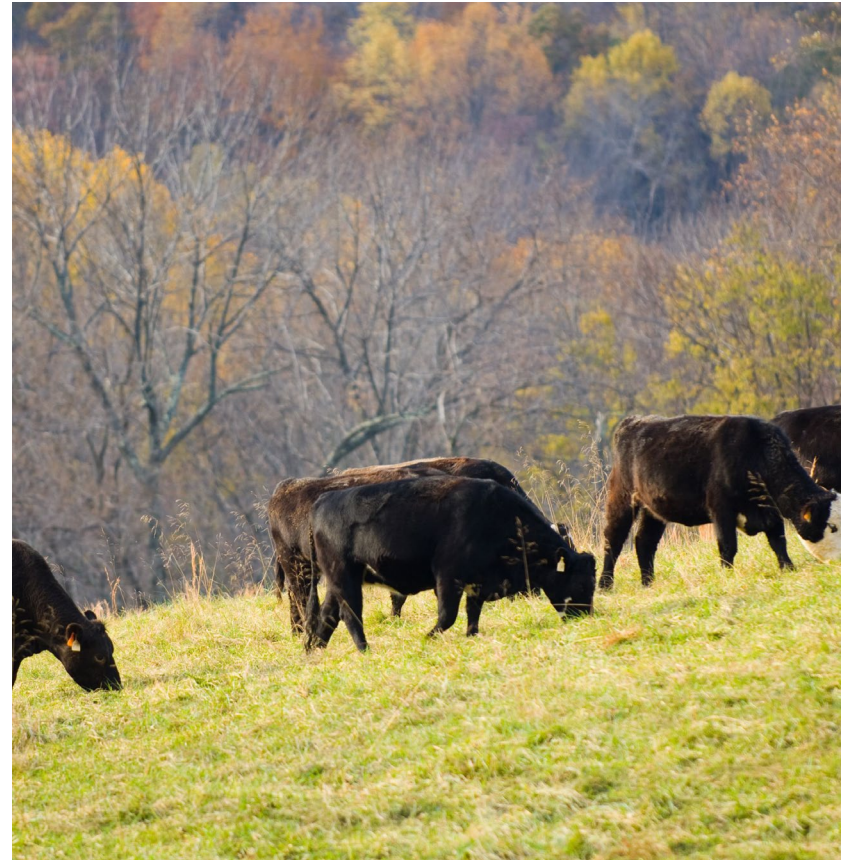
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- Farms are not required to report animal waste air emissions under either CERCLA or EPCRA.
- Rural Empowerment Association for Community Help (REACH) and several other environmental groups filed a complaint in the U.S. District Court for the District of Columbia challenging the reporting exemption for farms under EPCRA (i.e., the 2019 rule).
- On February 14, 2022, D.C. Circuit Court granted EPA's motion to remand 2019 rule without vacatur. (The exemption is still in place while EPA either revises or rescinds through a rulemaking).

# Update, cont.

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- On November 17, 2023, the EPA published an advance notice of proposed rulemaking (ANPRM) seeking information on how to promote compliance and accuracy in reporting, how to streamline reporting requirements, a potential small farm exemption. The comment period closed **February 15, 2024**.
- The Agency is evaluating the information received under ANPRM and assessing whether to move forward on a rulemaking to require reporting. In order for the Agency to require animal waste air emission reporting, a proposed rule and final rule would need to be issued, which is a multi-year process.





# ANPRM – EPCRA National Database

EPCRA National Database: EPA solicited comment on a centralized database hosted and managed by EPA, whereby EPA could collect EPCRA reports and make those reports immediately available to state, tribal, and local agencies.

- The database could also reduce the burden on implementing agencies by providing a public right-to-know information center. The clearinghouse would be a “one-stop shop” for industry, the EPCRA implementing agencies, and the public.
- The database would handle all reporting requirements, as well as requests from the public for information.

Docket ID No. EPA–HQ–OLEM–2023–0142, at <https://www.regulations.gov>.

# Clean Water Act Hazardous Substance Facility Response Plans Final Rule 40 CFR 118





# Legal Disclaimer

***This presentation is meant to provide an overview of final rule at 40 CFR Part 118. The statutory provisions and EPA regulations described in this presentation contain legally binding requirements. This presentation does not substitute for those provisions or regulations, nor is it a regulation itself. In the event of a conflict between the discussion in this presentation and any statute or regulation, the statute and/or regulation is controlling. This presentation does not impose legally binding requirements on EPA or the regulated community and might not apply to a particular situation based upon the circumstances. The word “should” as used in this presentation is intended solely to recommend or suggest an action and is not intended to be viewed as controlling. Examples in this presentation are provided as suggestions and illustrations only. While this presentation indicates possible approaches to assure effective implementation of the applicable statute and regulations, EPA retains the discretion to adopt approaches on a case-by-case basis that differ from this presentation where appropriate. Any decisions regarding compliance at a particular facility will be made based on the application of the statute and regulations. References or links to information cited throughout this presentation are subject to change. Rule provisions and internet addresses provided in this guidance are current as of April 2024. This presentation may be revised periodically without public notice.***

# Agenda

- Background
- Applicability
  - Screening Criteria
  - Substantial Harm Criteria
- Rule Provisions
  - Major Rule Provisions
  - Plan Elements
  - Substantial Harm Certification Form
  - Compliance Dates
- Communities with Environmental Justice Concerns
- Climate Change



# Background: Statutory and Regulatory

Under section 311(j)(5) of the [Clean Water Act](#) (CWA), the President:

- “shall issue regulations which require an owner or operator of a . . . facility . . . to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.”

Oil requirements promulgated in 1994: [Facility Response Plans \(FRP\)](#) under [Subpart D of 40 CFR 112](#).

EPA had not previously proposed worst-case discharge planning regulations for CWA hazardous substances (HS) under 311(j)(5).



# Background: Timeline

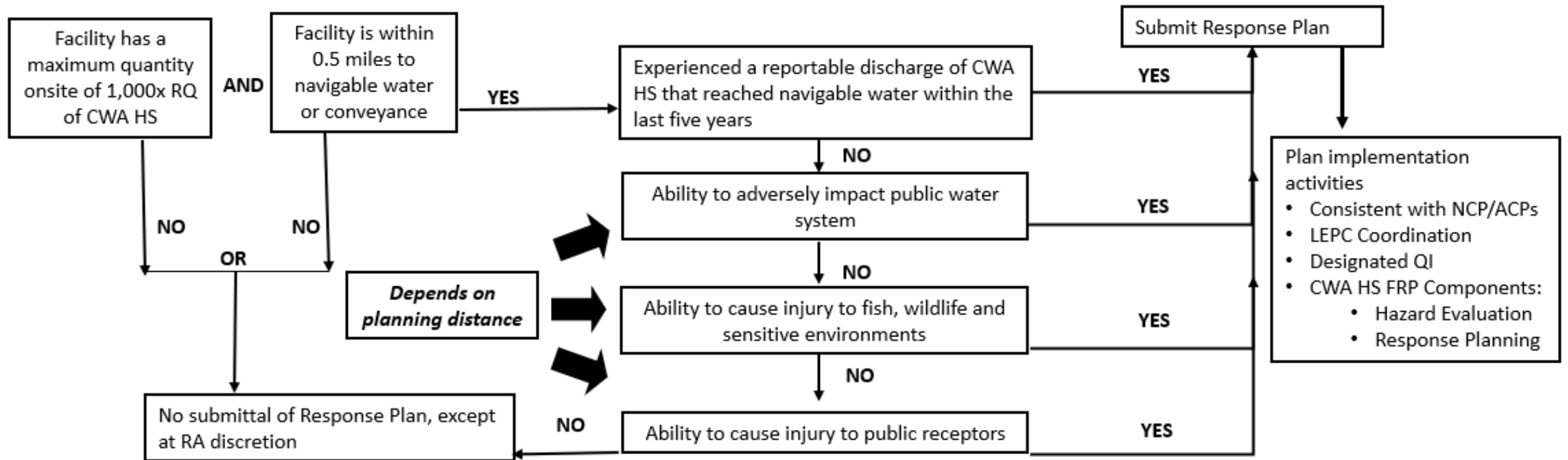


## Major Changes from Proposal

- RQ multiplier lowered from 10,000x to 1,000x
- Threshold and worst case discharge (WCD) quantities based on maximum quantity on site, not capacity
- Worst case discharge scenarios for each CWA HS on site above threshold quantity (1,000xRQ)
- FRP must cover only CWA HS on site above threshold quantity
- 1 & 2-hour Response Actions
- FRP must include ERAP
- Recertify every 5 years, not resubmit

# Final Applicability Criteria – 118.3

\* Facility – onshore non-transportation-related

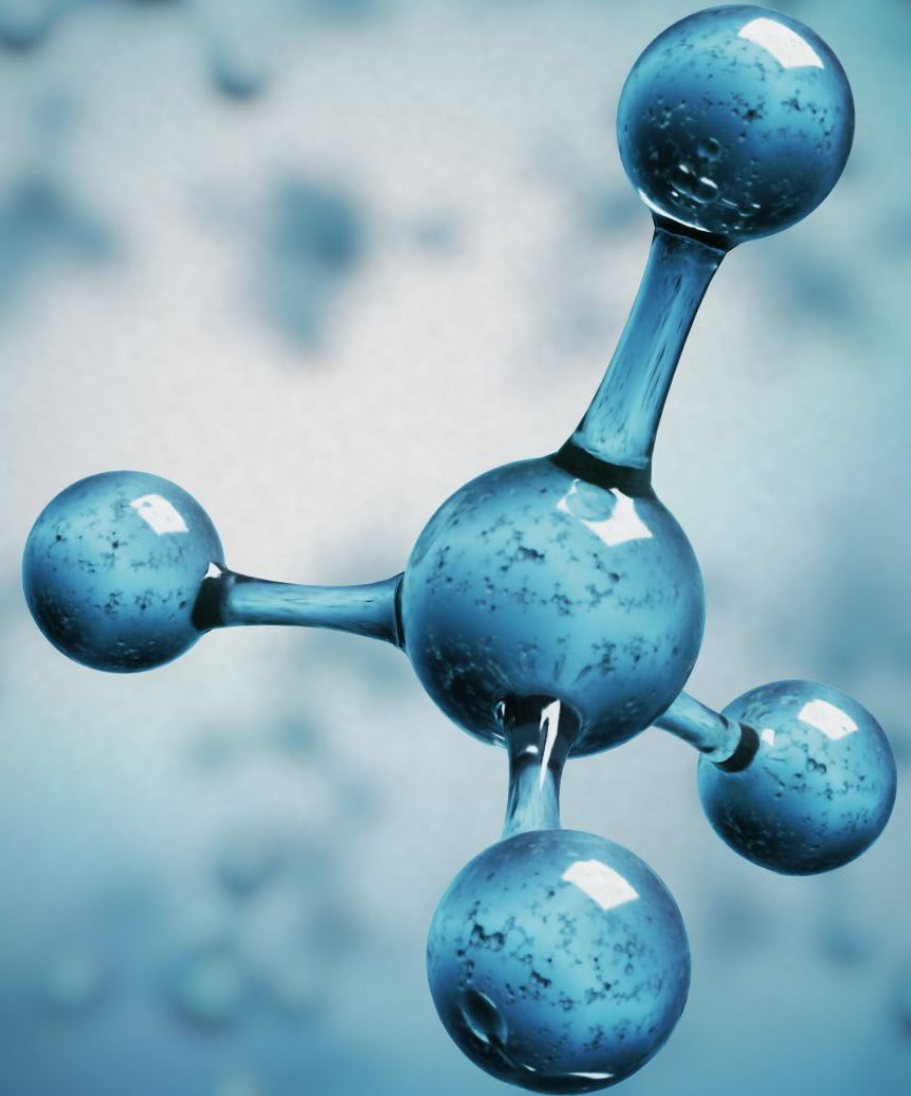




# Screening Criterion: Threshold Quantity – 118.2(a)

Any CWA hazardous substance on site (in aggregate and including mixtures) at or above 1,000x Reportable Quantity at any time

- 296 CWA hazardous substances as listed in [40 CFR 116.4](#)
- Reportable Quantities as listed in [40 CFR 117.3](#)
- Will be added to [EPA's List of Lists](#)



## Mixture Rule – 118.9

If mixed with oil, regulated as oil.

Otherwise, CERCLA mixture rule, no *de minimus* quantity.

- If all quantities known, meets threshold quantity when the maximum quantity onsite meets or exceeds the threshold quantity of any CWA hazardous substance in the mixture.
- If unknown quantities, meets the threshold when maximum quantity onsite meets or exceeds the quantity for the CWA hazardous substance with the lowest threshold quantity.



Screening  
Criterion: Distance  
to Navigable  
Water – 118.3(b)

Facility is within one-half (0.5) mile of navigable water or conveyance to navigable water

- Navigable water is defined through [Waters of the United States \(WOTUS\) 40 CFR 120](#)
- Statutory authority is “based on location”

# Applicability: Ability to Cause Substantial Harm to the Environment – 118.3(c)

CWA: Covered facility is “[an] onshore facility that, because of its location, **could reasonably be expected to cause substantial harm to the environment** by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone”

1. Ability to adversely impact public water system (PWS)
2. Ability to cause injury to fish, wildlife, and sensitive environments (FWSE)
3. Ability to cause injury to public receptors
4. Reportable discharge history

# Substantial Harm Criterion: Ability to Cause Injury to FWSE – 118.3(c)(1)



May include wetlands, national and State parks, critical habitats for endangered or threatened species, wilderness and natural resource areas, marine sanctuaries and estuarine reserves, conservation areas, preserves, wildlife areas, wildlife refuges, wild and scenic rivers, recreational areas, national forests, Federal and State lands that are research national areas, heritage program areas, land trust areas, historical and archaeological sites and parks, include unique habitats such as aquaculture sites and agricultural surface water intakes, bird nesting areas, critical biological resource areas, designated migratory routes, and designated seasonal habitats.

Requires planning distance calculations

Endpoints in Appendix B based on 96-hour LC50  
FWSE in Area Contingency Plans (intended to be updated)

# Substantial Harm Criterion: Ability to Adversely Impact PWS – 118.3(c)(2)

Outcome-based; must work with PWS to determine (if possible)

1. Violates any National Primary Drinking Water Standard (NPDWS) or State Drinking Water Regulation (SDWR), such as an exceedance of a MCL
2. Compromises the ability of the PWS to produce water that complies with any NPDWS or SDWR
3. Results in adverse health impacts in people exposed to the maximum concentration that could enter a drinking water distribution system
4. Contaminates public water system infrastructure, including but not limited to intake structures, treatment facilities, and drinking water distribution systems, or premise plumbing systems to a degree that requires remediation to restore system components to acceptable performance
5. Impairs the taste, odor, or other aesthetic characteristic of the water entering a drinking water distribution system to a degree that could make the water unacceptable to consumers and that could prompt the public water system to issue use restrictions

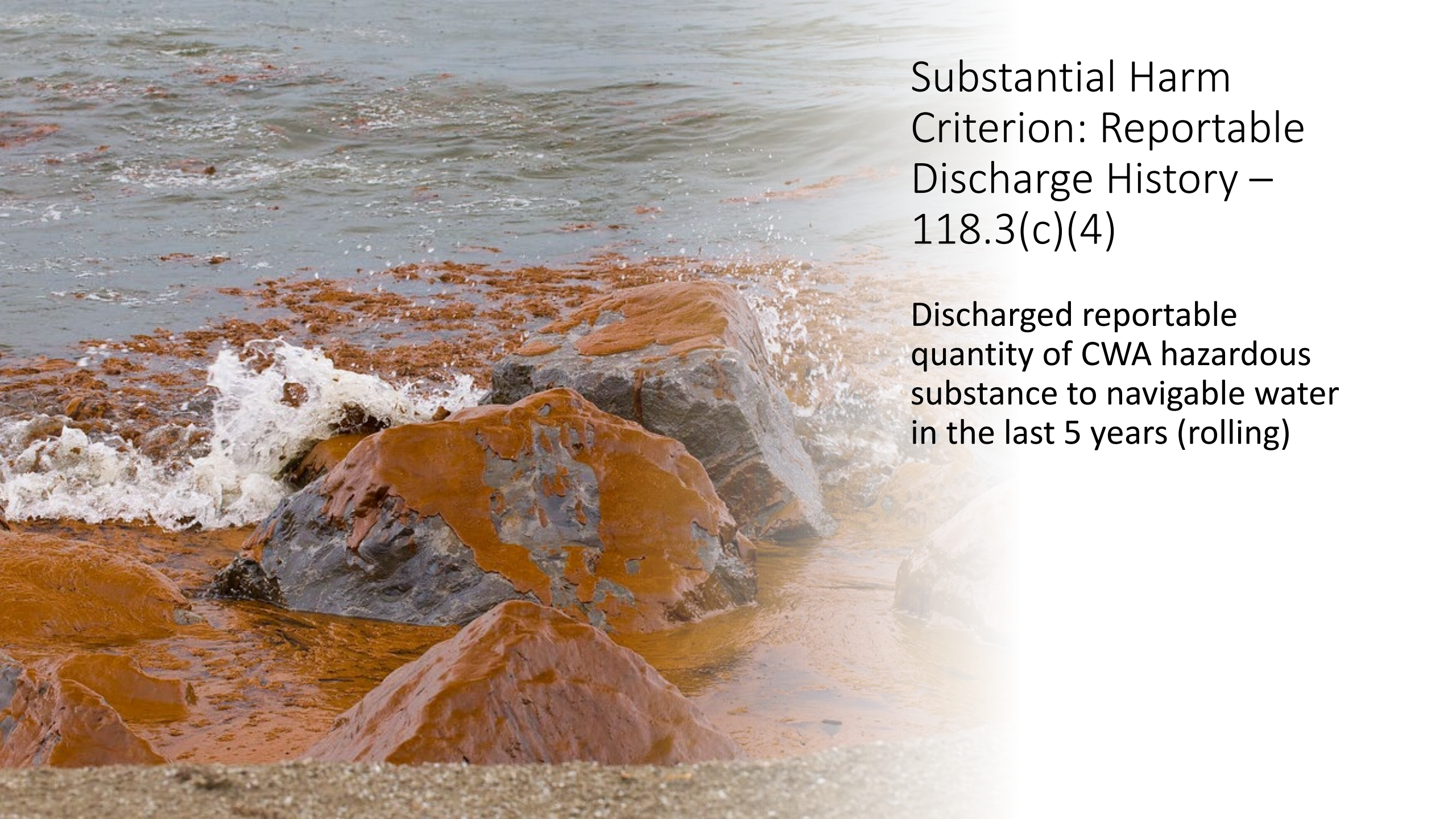
## Substantial Harm Criterion: Ability to Cause Injury to Public Receptors – 118.3(c)(3)

Parks, recreational areas, docks, or other public spaces inhabited, occupied, or used by the public at any time where members of the public could be injured as a result of a worst case discharge into or on the navigable waters or a conveyance to navigable waters.

Requires planning distance calculations

Endpoints in Appendix B based on LD50





Substantial Harm  
Criterion: Reportable  
Discharge History –  
118.3(c)(4)

Discharged reportable  
quantity of CWA hazardous  
substance to navigable water  
in the last 5 years (rolling)



# Worst Case Discharge Scenarios – (118.10)

Use endpoints in Appendix B for FWSE/public receptors

**Quantity:** max in a single container or multiple interconnected containers

**Planning Distance:** must consider

*Overland transport including:*

- Nearest opportunity for discharge into or on the navigable waters
- Ground conditions (topography, draining, etc.)
- Properties of CWA HS

*In-water transport including:*

- Point of entry to navigable waters
- Flow rate and duration of the discharge
- Direction of the discharge at the point of entry
- Surface versus underwater entry
- Conditions of the receiving water

*Adverse weather conditions:* calculated based on adverse winds, currents, and/or river stages, over a range of seasons, weather conditions, and river stages.

*Properties of the CWA hazardous substance* such as solubility in water, speciation in water, density (relative to water), polarity, vapor pressure, reactivity with water and common solutes in natural waterbodies, human toxicity, mammalian toxicity, aquatic toxicity, and flammability.



# Applicability: Exceptions and Exemptions – 118.8

## Exceptions

- Anything in transportation (DOT PHMSA)
- Under USCG or DOI authority
- Underground Storage Tanks under [40 CFR 280](#)

## Exemptions:

- Articles
- Uses:
  - Structural components
  - Janitorial
  - Foods, drugs, cosmetics
  - Process/cooling water
  - Wastewater treated by POTWs
  - Compressed air
  - Retail/personal use
  - RCRA HazWaste ([40 CFR 264](#), [265](#), [262 Subpart M](#))

# Major Rule Provisions: RA Authority – 118.5

EPA Regional Administrator (RA) can require FRPs based on:

1. Type of transfer operation(s)
2. CWA hazardous substance quantity, category, characteristics
3. Proximity to FWSE
4. Ability to adversely impact PWS
5. Location in a source water protection area
6. Ability to cause injury to public receptors
7. Lack of passive mitigation measures or systems
8. Potential to adversely impact communities with environmental justice concerns;
9. Potential vulnerability to adverse weather conditions resulting from climate change
10. Density of facilities with CWA hazardous substances onsite in the immediate area
11. Reportable discharge history
12. Other site-specific characteristics and environmental factors that the RA determines to be relevant to recovery, shoreline protection, and cleanup.

EPA RA determines if a facility can cause significant and substantial harm to environment – these plans must be approved by EPA

1. Frequency of past reportable discharges
2. Proximity to navigable waters or a conveyance to navigable waters
3. Age or condition of containers and equipment;
4. Potential for hazards such as flooding, hurricanes, earthquakes, or other disasters that could result in a worst case discharge
5. Other facility- and Region-specific information, including local impacts on public health

# Major Rule Provisions: Appeals (118.6) and Petitions (118.7)

## **Appeals**

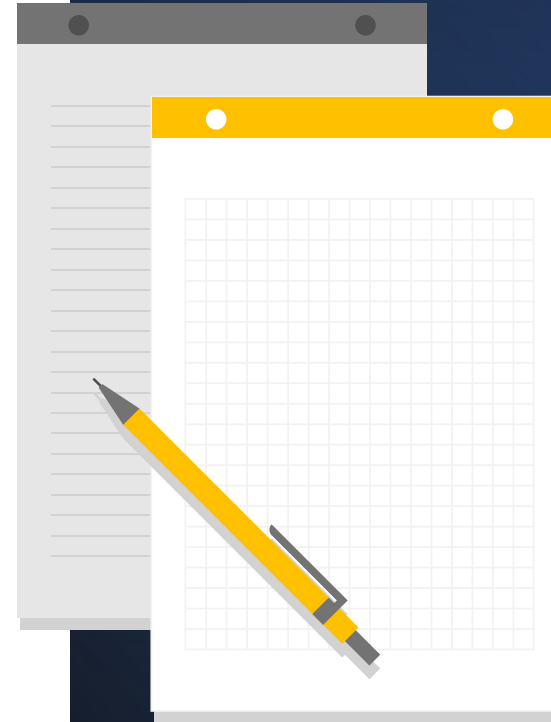
- Facility O/O can appeal that it meets applicability criteria or RA determination of sub or sig/sub harm, or amendments
- Facility O/O can appeal classification or status as sub or sig/sub harm
- Appeal can go up to EPA administrator

## **Petitions**

- Any member of public can petition RA to consider if facility could cause sub harm to environment
- Petition must discuss why and will be made available to facility O/O and O/O has opportunity to reply

# Facility Response Plans: General Requirements – 118.11(a)

- Consistent with NCP and ACPs - Review annually and revise
- ID Qualified Individual (trained to Incident Commander)
- ID and ensure by contract or other means private personnel and equipment
- Describe the training, equipment testing, periodic unannounced drills, and response actions
- Update facility response plan periodically and resubmit to the Regional Administrator for approval of each significant change



# Facility Response Plans: Plan Elements – 118.11(b)

- Facility information
- Owner/operator information
- Reportable discharge history: to water, 5 years
- Response personnel and equipment: private personnel and equipment necessary to respond to the maximum extent practicable to WCD or threat of WCD
- Hazard evaluation
- Notifications
- Discharge information
- Personnel roles and responsibilities
- Evacuation plans (+diagrams)
- Discharge detection systems
- Response actions
- Disposal plans
- Containment measures
- Training procedures
- Exercise procedures
- Self-inspection
- Emergency Response Action Plan (ERAP)

# Response Actions – 1 and 2-hour Requirements 118.11(b)(13)

## 1-hour:

- Complete notifications
- Mobilize facility response personnel for immediate response actions
- Identify the scale of the incident, coordinate with SRO on response actions
- Complete WCD scenario cross-check and potential effects and start tactical planning;
- Ensure containment and neutralization systems are operational;
- Coordinate facility evacuation;
- Coordinate with drinking water authorities;
- Mobilize response equipment coordinate with local police and fire officials.

## 2-hour:

- Initiate community evacuation plan,
  - Evaluate if downstream/upstream public receptors that could be impacted and may require evacuation
- Deploy response resources identified in the response plan:
    - Containment and recovery devices (such as containment dams, culvert plugs, underflow dams, containment booms, skimmer equipment or acid/base neutralization resources);
  - Initiate any water, soil, and air monitoring as outlined in the response plan.

# Substantial Harm Certification Form – Appendix A

Facilities that meet the screening criteria but not the substantial harm criteria need to submit a Substantial Harm Certification Form (Appendix A) to EPA

Facilities submitting FRPs can submit their forms along with the full plans



# Coordination Activities – 118.12

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FRP must be coordinated with local ER plan developed under EPCRA 303.



Facility must provide FRP to LEPC/TEPC/SERC/TERC or other local emergency planning or response org (upon request).



Facility must coordinate with locals to determine how addressed in local ER plan and ensure community awareness of risks at facility.



At least annual coordination including information sharing and drill/exercise schedule establishment



Must include documentation, including good faith efforts to coordinate

# State/Tribal/Local Impacts



Program cannot be delegated to State under CWA, but EPA will work with States with existing programs to ease administrative burden



Data availability: EPA will make data from Plans/Substantial Harm Certification Forms available to States/Tribes/Locals for their awareness/purposes



States/Tribes/Locals can petition Regional Administrator to consider requiring plans from facilities that do not meet the published applicability criteria



# Communities with Environmental Justice Concerns

- Industrial facilities and ASTs disproportionately located in communities with environmental justice concerns.
- WCD of CWA hazardous substances on communities depends on discharge circumstances and facility's positioning up or downstream from public water system intakes that serve large and diverse communities.
- RAs have authority to make determinations on a case-by-case basis based on, among other things, potential impacts of a worst case discharge on communities with environmental justice concerns.
- Facilities must examine potential impacts to communities with environmental concerns in their FRP hazard evaluation.

# Climate Change

- A worst case discharge: the largest foreseeable discharge in adverse weather conditions, which is inclusive of conditions due to climate change.
- RAs have authority to make determinations on a case-by-case basis based on, among other things, concerns related to climate change risks.
- Facilities must examine climate change impacts in their FRP hazard evaluation.



# Facility Response Plans: Compliance Dates – 118.4



**FRPs due:  
June 1, 2027**



**Substantial Harm  
Certification Forms  
due:  
June 1, 2027**



**After initial  
period:  
FRPs due within 6  
months of meeting  
criteria**

Substantial Harm  
Certification forms  
due within **60 days  
of meeting criteria**



**Recertify plans  
and Substantial  
Harm Certification  
Forms every 5  
years**

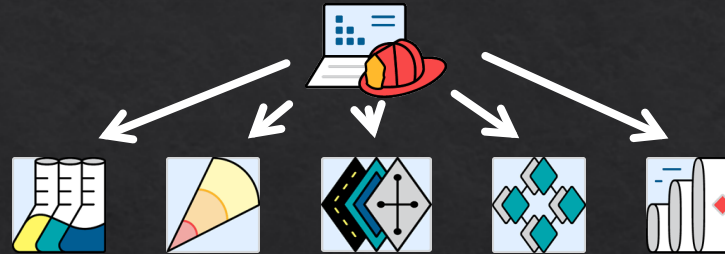


**Amendments  
(material  
changes) within  
60 days**



# CAMEO<sup>®</sup> Software Suite

Computer-Aided Management of Emergency Operations



## Latest Software Versions

- [ALOHA](#) (version 5.4.7, September 2016)
- [CAMEO Chemicals](#) (version 3.0.0, October 2023)
- [CAMEO Data Manager](#) (version 4.3.0, December 2023)
- [MARPLOT](#) (version 5.1.1, December 2017)
- [Tier2 Submit](#) (version 2023, December 2023)

## Anticipated Software Releases

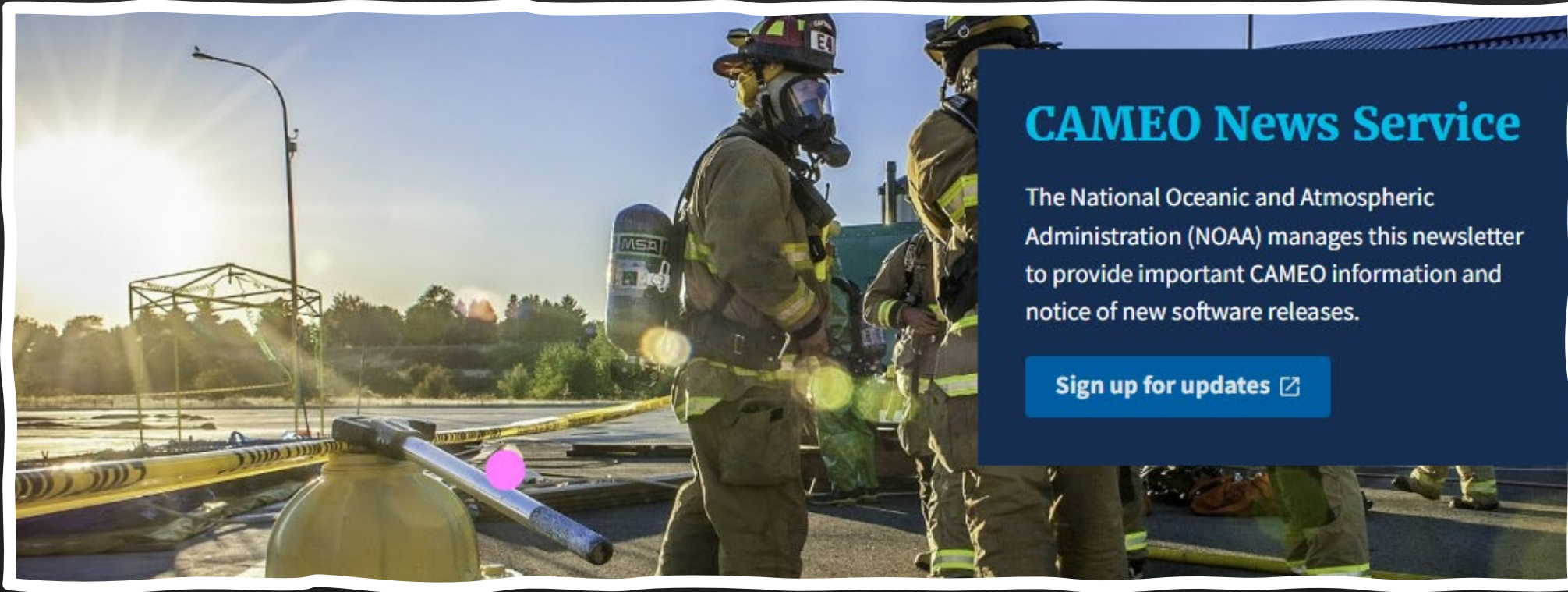
- ALOHA **Major Update** ~ May 2024
- CAMEO Chemicals ~ May 2024
- Tier II Submit ~ November 2024
- CAMEO Data Manager ~ November 2024
- MARPLOT **Major Update** ~ 2024/2025
- MARPLOT **Major Update** ~ 2024/2025



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[www.epa.gov/cameo](http://www.epa.gov/cameo)

# Sign Up for SERC- TERC Monthly Newsletter

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<https://www.epa.gov/epcra/serc-terc-monthly-updates>

Same link to access older editions





# EPA Contacts and Resources

## CWA Hazard Substances FRP Regulations

- <https://www.epa.gov/hazardous-substance-spills-planning-regulations>
- [Broussard.Rebecca@epa.gov](mailto:Broussard.Rebecca@epa.gov)

## RMP Safer Communities Chemical Accident Prevention Final Rule

- <https://www.epa.gov/rmp/risk-management-program-safer-communities-chemical-accident-prevention-final-rule>
- [Daniel.Kevin@epa.gov](mailto:Daniel.Kevin@epa.gov)

## CERCLA Listing of PFAS, PFOA, and PFOS.

- <https://www.epa.gov/superfund/proposed-designation-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos>
- [Jacob.Sicy@epa.gov](mailto:Jacob.Sicy@epa.gov)

## CAMEO and EPCRA Questions:

- <https://www.epa.gov/cameo>
- [Barre.Jennifer@epa.gov](mailto:Barre.Jennifer@epa.gov)