

REGULATORY *Update*

HAZARDOUS SUBSTANCE FACILITY RESPONSE PLAN

In March 2024, EPA signed a final rule requiring certain facilities to develop Facility Response Plans (FRP) for a worst-case discharge of Clean Water Act (CWA) hazardous substances or threat of such a discharge.

Facilities that could reasonably be expected to cause "substantial harm" to the environment by discharging CWA hazardous substances into navigable waters or a conveyance to navigable waters are required to prepare and submit FRPs to EPA. Facilities may be identified as posing substantial harm either through a self-identification process or a process whereby EPA Regional Administrators may assess facilities on a case-by-case basis. EPA could require a facility to develop a response plan based on, among other things, concerns related to potential impacts of a worst-case discharge on communities. Regulated facilities are required to submit response plans to EPA within 36 months after the effective date of the rule.



Final Rulemaking on CWA hazardous substances FRPs can be found at <https://www.epa.gov/hazardous-substance-spills-planning-regulations/final-rulemaking-clean-water-act-hazardous>

REQUIREMENTS

The CWA hazardous substance FRP requirements apply to facilities that:

- ❖ Have a maximum on-site quantity of any CWA hazardous substance that meets or exceeds 1,000 times the Reportable Quantity (see 40 CFR 117.3); and
- ❖ Are within 0.5-mile of navigable water or a conveyance to navigable water; and
- ❖ Meet one or more of the following substantial harm criteria:
 - ◆ Ability to cause injury to fish, wildlife and sensitive environments.
 - ◆ Ability to adversely impact a public water system.
 - ◆ Ability to cause injury to public receptors.
 - ◆ Has had a reportable discharge of a CWA hazardous substance above the Reportable Quantity within the last five years that reached navigable water.

NPN Environmental can assist its clients in understanding and meeting these requirements to help protect the environment by ensuring that facilities have planned for and can respond to discharges of hazardous substances.

If you have any questions regarding the standards and guidelines or evaluation and procedures, please contact us at 636-343-1300 or visit us at <https://npnenv.com/facility-response-plans/>.