

ARTICLE

EPA Comment Period Open on Proposed Clean Water Act Hazardous Substance Worst-Case Discharge Planning Regulations

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EPA Comment Period Open on Proposed Clean Water Act Hazardous

Substance Worst-Case Discharge Planning Regulations: EPA is seeking comments on requiring certain facilities to submit Clean Water Act (CWA) hazardous substance facility response plans. The proposal is aimed at any onshore, non-transportation-related facilities that could reasonably be expected to cause substantial harm to the environment by discharging listed CWA hazardous substances into or on navigable waters, adjoining shorelines, or an exclusive economic zone. The purpose of the plan is to support chemical accident preparedness in relation to these listed chemicals. Affected facilities include those with the container capacity for a CWA hazardous substance onsite at or above a threshold quantity located within one-half mile of navigable water or a conveyance to navigable water. The proposed threshold is a maximum capacity onsite of 10,000 times or more of the chemical's listed Reportable Quantity. If these first two conditions are satisfied, the owner or operator determines whether the facility meets any of the four substantial harm criteria. As proposed, EPA Regional Administrators would have the authority to require a response plan even if the proposed criteria are not met. There are many federal contingency plans already required – it will be important for facilities to understand how this new one fits into their existing plans. Comments are due May 27, 2022.

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Practice Areas

Environment & Product Regulation