Approved by vote of the Access Board on January 28, 2026.

Christopher Kuczynski,

General Counsel.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 118

[EPA–HQ–OLEM–2025–1707; FRL–7881.2–01–OLEM]

RIN 2050–AH41

Clean Water Act Hazardous Substance Facility Response Plans; Amendment Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is publishing an advance notice of proposed rulemaking to seek feedback on reconsidering Clean Water Act Hazardous Substance Facility Response Plans regulations that were published in the **Federal Register** on March 28, 2024. This advanced notice of proposed rulemaking seeks feedback on potential amendments to address implementation challenges and clarify requirements from the 2024 final rule. Any resulting proposed amendments will align with Administration priorities and would prioritize opportunities to address regulatory burden while maintaining planning requirements to protect human health and the environment when responding to Clean Water Act Hazardous Substance worst case discharges.

DATES: Comments must be received on or before March 20, 2026.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2025–1707, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rebecca Broussard, Office of Resource Conservation and Recovery Act, Office of Land and Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–0121; email: *torres-rosa.christie@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and abbreviations

EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

List of Abbreviations and Acronyms

ANPRM Advanced Notice of Rulemaking
CWA Clean Water Act
EPA Environmental Protection Agency
FRP Facility Response Plan
HS Hazardous Substance
PWS Public Warter Systems
QI Qualified Individual
RA Regional Administrator
RQ Reportable quantities

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I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2025–1707 at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. [insert alternate language about the submission of CBI or PBI directly to the Program Office, if applicable.] Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.}

II. General Information

A. Does this action apply to me?

A list of NAICS codes at the three-digit level that could be affected by requirements established under Clean Water Act (CWA) section 311(j)(5), as applicable, is provided in table 1.

TABLE 1—SECTORS POTENTIALLY AFFECTED BY THE PROPOSED RULE

NAICS	NAICS description
111	Crop Production.
112	Animal Production and Aquaculture.
115	Support Activities for Agriculture and Forestry.
211	Oil and Gas Extraction.
212	Mining (except Oil and Gas).
213	Support Activities for Mining.

TABLE 1—SECTORS POTENTIALLY AFFECTED BY THE PROPOSED RULE—Continued

NAICS	NAICS description
221	Utilities.
236	Construction of Buildings.
237	Heavy and Civil Engineering Construction.
238	Specialty Trade Contractors.
311	Food Manufacturing.
312	Beverage and Tobacco Product Manufacturing.
313	Textile Mills.
314	Textile Product Mills.
321	Wood Product Manufacturing.
322	Paper Manufacturing.
323	Printing and Related Support Activities.
324	Petroleum and Coal Products Manufacturing.
325	Chemical Manufacturing.
326	Plastics and Rubber Products Manufacturing.
327	Nonmetallic Mineral Product Manufacturing.
331	Primary Metal Manufacturing.
332	Fabricated Metal Product Manufacturing.
333	Machinery Manufacturing.
334	Computer and Electronic Product Manufacturing.
335	Electrical Equipment, Appliance, and Component Manufacturing.
336	Transportation Equipment Manufacturing.
339	Miscellaneous Manufacturing.
423	Merchant Wholesalers, Durable Goods.
424	Merchant Wholesalers, Nondurable Goods.
441	Motor Vehicle and Parts Dealers.
444	Building Material and Garden Equipment and Supplies Dealers.
447	Gasoline Stations.
453	Miscellaneous Store Retailers.
481	Air Transportation.
486	Rail Transportation.
488	Support Activities for Transportation.
493	Warehousing and Storage.
511	Publishing Industries (except Internet).
518	Data Processing, Hosting, and Related Services.
522	Credit Intermediation and Related Activities.
531	Real Estate.
541	Professional, Scientific, and Technical Services.
561	Administrative and Support Services.
562	Waste Management and Remediation Services.
611	Educational Services.
622	Hospitals.
624	Social Assistance.
712	Museums, Historical Sites, and Similar Institutions.
713	Amusement, Gambling, and Recreation Industries.
811	Repair and Maintenance.
812	Personal and Laundry Services.
921	Executive, Legislative, and Other General Government Support.
924	Administration of Environmental Quality Programs.
926	Administration of Economic Programs.
928	National Security and International Affairs.

This table is not intended to be exhaustive but rather provides a guide for readers regarding affected entities potentially regulated by this action. This table includes the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not included in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is publishing this advanced notice of rulemaking (ANPRM) to seek feedback on specific elements of the newly promulgated facility response plan (FRP) requirements for worst case discharges of Clean Water Act (CWA) hazardous substances (HS) for non-transportation related onshore facilities under 40 CFR part 118 (89 FR 21924, March 28, 2024). The new requirements focus on facilities that, because of their location, could reasonably be expected to cause substantial harm to the environment by discharging a CWA HS into or on the navigable waters, adjoining shorelines, or exclusive economic zone. The Agency recognizes there are multiple implementation challenges given the complex nature of the new program. Further, the regulated community has also identified process challenges to implementing the requirements as finalized.

This ANPRM focuses on specific elements of the new requirements with the goal of identifying opportunities to address implementation challenges and clarify the existing requirements, including potential amendments to the existing requirements that could offer potential burden reductions. The regulatory elements for which the Agency is explicitly seeking feedback are detailed in the background section below.

C. What is the Agency's authority for taking this action?

This ANPRM is authorized by section 311(j)(5) and 501(a) of the CWA, (33 U.S.C. 1321(j)(5), 1361(a)). Section 311(j)(5) of the CWA directs the President to issue regulations to require an owner or operator of a facility to prepare and submit 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. Executive Order 12777 (56 FR 54757, October 18, 1991) delegated CWA section 311(j)(5) authority for non-transportation-related onshore facilities to EPA.

III. Background

A. Rule History

In 1994, EPA promulgated regulations for FRPs for worst case discharges of oil under 40 CFR part 112, subpart D (59 FR 34070, July 1, 1994). On March 21, 2019, the Natural Resources Defense Council, Clean Water Action, and the Environmental Justice Health Alliance for Chemical Policy Reform filed suit in the United States District Court for the Southern District of New York alleging violations of the CWA section 311(j)(5)(A)(i) and the Administrative Procedures Act for failing to promulgate corresponding regulations for FRPs for worst case discharges of CWA HS. Pursuant to a consent decree, on March 28, 2024, EPA finalized facility response planning requirements for CWA HS at 40 CFR part 118 (89 FR 21924, March 28, 2024). The list of CWA HS is available at 40 CFR 116.4 and reportable quantities (RQs) assigned to each of these CWA HS are at 40 CFR 117.3.

B. Regulatory Requirements

The 2024 final rule established FRP requirements for a worst-case discharge of CWA HS from non-transportation-related onshore facilities that, because of their location, could reasonably be expected to cause substantial harm to the environment by discharging these substances into or on navigable waters, adjoining shorelines, or the exclusive economic zone.

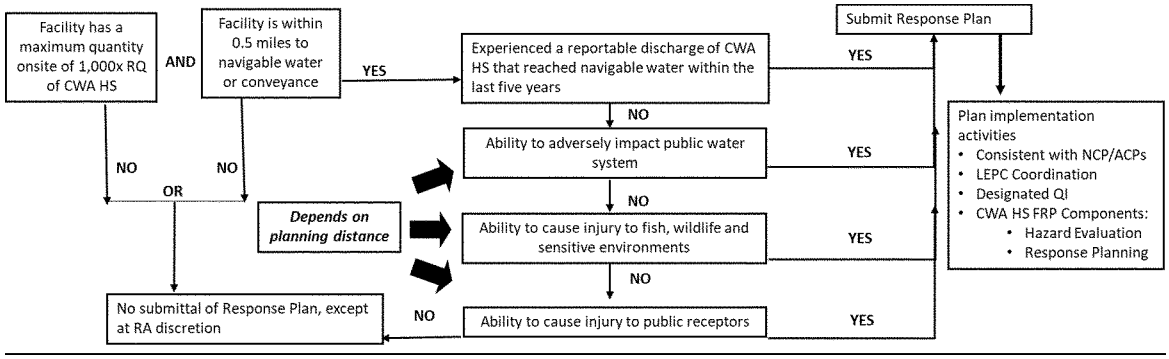
The applicability requirements establish three paths to determine whether a non-transportation related onshore facility is subject to the CWA FRP rule:

- Facility owner/operator determination;
- Regional Administrator (RA) case-by-case determination (applies to any non-transportation-related onshore facility); or
- Petition (*e.g.,* by the public) to an EPA Regional Administrator.

The facility owner or operator applicability determination considers multiple criteria in sequential order (40 CFR 118.3). First, an owner or operator of a facility must determine if they satisfy the initial screening criteria that are based on the quantities of each CWA HS at the facility and its distance to navigable waters or conveyance to navigable waters. For purposes of FRP requirements, threshold quantities for each CWA HS are established in 40 CFR 118.3(a) as a multiple of 1,000 for the corresponding Reportable Quantity (RQ) [1] pursuant to the authority provided under section 311(b) of the CWA. If a facility does not have more than a CWA HS threshold on-site quantity or if a facility is not within a half mile of a navigable water or a conveyance to navigable waters, then the facility is not subject to the requirements of the rule. However, if a facility exceeds both a CWA HS threshold quantity *and* is within one-half mile of a navigable waters or a conveyance to navigable waters, applicability of the FRP requirements is then determined by evaluating substantial harm criteria that depend, in part, on planning distance calculations. There are four substantial harm elements to consider when determining potential applicability:

- A reportable discharge of a CWA HS from the facility within the last five years that reached navigable waters;
- Ability for a discharge of a CWA HS to navigable waters to adversely impact a public water system (PWS);
- Ability for a discharge of a CWA HS to navigable waters to cause injury to fish, wildlife, and sensitive environments; or
- Ability for a discharge of a CWA HS to navigable waters to cause injury to public receptors.

Figure 1—Applicability Criteria for CWA Hazardous Substance FRP Facilities



Substantial harm criteria require multiple layers of analyses to determine if the facility is located at a distance to an endpoint such that it meets the substantial harm specific thresholds. For example, to determine the ability to adversely impact a PWS, the owner or operator of a facility must evaluate five sub-criteria to assess the substantial harm criterion for PWS. In so doing, the facility should coordinate with the PWS to conduct its assessment. The five sub-criteria for whether a worst case discharge adversely impacts a PWS includes a concentration of a CWA HS that: violates any National Primary Drinking Water Standards or State Drinking Water Regulations, compromises the ability of the PWS to comply with such standards, results in adverse health impacts in people exposed to the maximum concentration that could enter a drinking water distribution system, contaminate public

[1] CWA RQs established under 40 CFR 117.3 include five reportable quantities: 1, 10, 100, 1,000 and 5,000 lbs. This corresponds to threshold quantities under 40 CFR 118.3(a) of 1,000, 10,000, 100,000, 1,000,000, and 5,000,000 lbs.

water system infrastructure, or impair the taste, odor, or other aesthetic characteristics of the drinking water.

The requirements include planning distance calculations for both the facility owner or operator to determine applicability, and, if required to submit an FRP, to determine worst case discharge response resources. These calculations are performance-based in that the owner or operator may use any methodology, model, or technique to calculate planning distance to the three substantial harm criteria endpoints that require such calculation, accounting for all applicable requirements and for facility specific conditions (*e.g.,* water flow rate). In addition, the final rule provides concentration-based endpoints specific to fish, wildlife, and sensitive environments and public receptors.

The FRP requirements under 40 CFR 118.11 include both general considerations and specific emergency response information, including an emergency response action plan.

General Plan Requirements

- Consistency with National Contingency Plan and Area Contingency Plans;
- Identify Qualified Individual (QI) having full authority to implement removal actions and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment;
- Identify, and ensure by contract or other approved means, the availability of private personnel and equipment necessary to remove to the maximum extent practicable a worst-case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
- Describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;
- Be updated periodically; and
- Be resubmitted for approval of each significant change.

Emergency Response Information

- *Facility information:* Facility details including the facility name; latitude and longitude; street address, with city, state, and zip code; telephone number; and facility location information described in a manner that would aid a reviewer and a responder in locating the facility;
- *Owner or operator information:* Contact information to include name and preferred contact method;
- Hazard evaluation for worst case discharge into or on the navigable waters or a conveyance to navigable waters considering a risk-based decision support system that is chemical specific (health hazards, fire hazards, chemical reactivity, hazard classifications, and physical and chemical properties, potential effects) and processes that will help responders make decisions on the identification, characterization, and control, of risks to human health and the environment following a CWA HS discharge;
- History of reportable discharges of CWA HS in quantities equal to or exceeding in any 24-hour period the designated RQ and that reached navigable waters (see 40 CFR 117.21);
- Personnel and equipment to implement the necessary response action to respond to a CWA HS worst case discharge, and to mitigate or prevent a substantial threat of such discharge;
- Evidence of contracts to ensure the availability of proper response personnel and equipment, including firefighting capabilities for handling a worst case discharge incident resulting from a fire or explosion, if facility or mutual aid resources are not available;
- A list of individuals or organizations, including contact information and preferred communication method(s) that need to be notified in the event of a discharge;
- Description of the information to provide response personnel with, including specifics about the discharge, including CWA HS name, characteristics, quantity discharged, possible areas and receptors affected, potential transport to nearby waterways, ignition sources and explosion potential, and other information that may be helpful to responders and the public, including updates on the scope and nature of the discharge as available;
- Description of response personnel duties and capabilities, including training and qualifications;
- Description of the response equipment, including purpose, location, and information on inspections, testing and drills;
- Facility evacuation plans, coordinated with community plans as appropriate and considering potential discharge scenarios and resulting interactions with response personnel;
- Procedures and equipment used to detect discharges, including reliability checks and inspections;
- Response actions to mitigate or prevent worst case discharges or the substantial threat of such discharges, including immediate detection, response, and monitoring actions;
- Plans to manage contaminated clean up materials, as appropriate, including recovery, reuse, decontamination, treatment, and disposal;
- Measures to provide adequate containment and drainage of discharged CWA hazardous substances;
- Training and exercise procedures; and
- Self-inspection procedures and records of findings to be retained for five years.

Emergency Response Action Plan

- Addresses the first two hours of the incident response;
- Outlines continued operations appropriate for Incident Command;
- Identifies contact information for the qualified individual having full authority to implement removal actions and as well as contact information for individuals and organizations to be contacted to coordinate the response (*e.g.,* federal officials, response personnel);
- Includes the facility's response equipment and its location;
- Includes the facility's response personnel capabilities, including duties and response times and qualifications;
- Includes a facility diagram, evacuation plans, and measures to secure the source; and
- Identifies potential pathways to public water systems, public receptors, and fish and wildlife and sensitive environments.

IV. Implementation Challenges

EPA has identified challenges with implementation of the CWA HS FRP requirements described in the 2024 final rule. The Agency has also received similar feedback concerning implementation challenges from multiple stakeholders, including potentially affected industry sectors. While the key focus of concerns centers around the complex nature of applicability determinations, this section also discusses several plan implementation issues identified. The Agency seeks feedback on approaches and opportunities to address those concerns, clarify requirements, and address burden, while maintaining readiness to protect human health and the environment in case of a CWA HS worst case discharge to navigable waters.

A. Applicability Issues

Specific to the applicability criteria, EPA recognizes concerns around the

complexity for an owner or operator to determine both if a facility is subject to the requirements and subsequently how to comply. All facilities that have a CWA HS in a quantity that meets or exceeds the on-site threshold quantity and are located within one-half mile of navigable waters or a conveyance to navigable waters are required to submit a ''Substantial Harm'' determination form to EPA regardless of whether they meet one or more ''Substantial Harm'' criteria that would ultimately require an FRP submittal. Concerns regarding the potential complexity of the applicability requirements, including the potential multiple calculations for all CWA HS at a facility, make the substantial harm calculations a key concern for rule implementation, particularly for facilities that ultimately may not be required to develop and submit an FRP.

While the Agency had proposed a multiple of 10,000 (10,000x RQs), the 2024 final rule established screening criteria thresholds at a multiple of 1,000 of the RQs (1,000x RQs). This change directly impacted size of the regulated universe. Additionally, the Agency rejected establishing de minimis thresholds to consider for container sizes toward the quantity onsite in the 2024 final rule. The Agency cited factors such as the potential for aggregated smaller quantities that could cause substantial harm in the event of a worst-case discharge, and the chemical property variations of the CWA HS, including toxicity, as rationale against establishing de minimis container sizes for threshold calculations. Nonetheless, for purposes of program implementation, concerns have been raised regarding this approach. Similarly, the requirements do not include de minimis concentrations to consider for purposes of threshold calculations of the quantity onsite. The lack of de minimis concentrations impacts, for example, how threshold quantities are to be determined for CWA HS generated as process byproducts or intermediates.

Concerns have also been raised regarding proximity to navigable waters determinations. While the Agency has stated in response to comments for the 2024 final rule that facility owners or operators should use the facility boundary or nearest opportunity to discharge into or on the navigable waters or a conveyance to navigable waters, potentially affected stakeholders have requested clarifications. For example, whether distance is measured point-to-point. Or whether proximity determinations are made relative to the facility fence line versus potential release location(s), particularly for facilities that have a large geographic footprint. Concerns additionally have been raised regarding regulatory ambiguity because of a lack of a ''conveyance'' definition specific to the FRP requirements.

The Agency seeks feedback on approaches to reconsider that would clarify or amend the requirements in a manner that still targets non-transportation related onshore facilities that could cause substantial harm to the environment through a worst-case discharge to navigable water as required by statute. Specifically, the Agency seeks feedback, including supporting rationale and data, on what streamlined approaches may be appropriate.

1. What other RQ multipliers should EPA reconsider? Why?

2. What different approaches, other than an RQ multiplier, should EPA reconsider establishing threshold quantities?

3. How could EPA simplify the threshold quantity screening criterion? For example, could a single threshold quantity apply for all CWA HS in lieu of a multiple of the RQs? If EPA chooses to establish a single threshold quantity, what rationale will support this approach? What quantity (or quantities) would be appropriate for the list of CWA HS in 40 CFR part 116? What reconsiderations should be given to establishing CWA HS de minimis concentrations, including byproducts and intermediates? Note, the FRP requirements for facilities handling oil have thresholds for total oil storage capacity greater than or equal to 42,000 gallons when transferring oil over water, and a total oil storage capacity greater than or equal to one million gallons otherwise. While the Agency recognizes the variability of the CWA HS, oils are complex mixtures with varied compositions depending on the source of organic matter, the elements from the rock reservoir, and its degradation over time. These differences in composition translate to differences in properties such as volatility, water solubility, toxicity and environmental persistence, all contributing to different fates and effects in the environment. Parallel assumptions could be reconsidered to capture the variations in the listed CWA HS for the purposes of establishing a simpler applicability approach to FRP regulatory threshold quantities.

4. What factors would support establishing a de minimis container size for purposes of CWA HS facility applicability threshold determinations? What reconsiderations should be given to establishing de minimis container sizes for CWA HS? What are the range of container sizes that may apply for storing CWA HS? What rationale would support selecting a de minimis container size?

5. What factors would support establishing de minimis concentrations for purposes of facility applicability threshold determinations? What reconsiderations should be given to establishing CWA HS de minimis concentrations? What rationale would support establishing de minimis concentrations?

6. How can EPA simplify the facility criterion for proximity to navigable waters? For example, is a clarification of how to reconsider ''facility boundary'' versus ''nearest opportunity'' necessary? Likewise, is there a need to clarify the term ''conveyance'' as it applies to CWA HS FRP requirements? What terminology could the Agency reconsider?

7. What changes to the substantial harm criteria specified under 40 CFR 118.3(c), if any, should EPA reconsider? What are alternative approaches to determine whether a facility's discharge of a CWA HS could reasonably be expected to cause substantial harm?

8. What quantity, other than an RQ, should EPA reconsider for the five-year reportable discharge substantial harm criterion? Oil FRP requirements establish a threshold for a five-year reportable discharge to navigable waters at greater than or equal to 10,000 gallons. What rationale would support an alternative threshold?

9. What other potential approaches should EPA reconsider for planning distance determination calculations?

10. What other potential exemptions from the applicability threshold determination should EPA reconsider? For example, there is an exemption for wastewater treated by Publicly Owned Treatment Works for determining whether the CWA HS maximum quantity onsite meets or exceeds the applicability threshold. What factors would support expanding that exemption to water treatment facilities/wastewater treated by privately-owned treatment works under NPDES permit? What rationales would support establishing other potential exemptions?

11. How should the new CWA HS FRP requirements account for CWA HS in oils that are already subject to 40 CFR part 112 oil FRP requirements? What factors would support establishing an exemption for CWA HS in oils already subject to oil FRP requirements from threshold quantity calculations?

B. Program Implementation Issues

In addition to the primary concerns specific to applicability determinations for the CWA HS FRP requirements,

there are broader program implementation issues that have been identified by both the Agency and potentially impacted stakeholders. The Agency recognized in the preamble to the 2024 final rule that, as this is a new and complex program, it would need to not only provide compliance assistance as facilities develop plans for the first time, but also make existing and evolving data sources and tools available as part of ongoing compliance assistance. While providing guidance on the various aspect of the regulation may help alleviate implementation concerns, simplifying requirements to minimize the need for additional compliance assistance tools may also be an alternative.

The Agency seeks feedback on approaches that would clarify or amend the requirements in a manner that still targets substantial harm facilities as required by statute. Specifically, the Agency seeks feedback on whether a more streamlined approach may be appropriate.

1. What existing tools or alternative approaches would assist a facility in determining planning distances for the existing worst case discharge calculations? For example, should EPA reconsider planning distance approaches like those applied to oil discharges in appendix C under 40 CFR part 112?

2. How are chemical reaction intermediates and byproducts appropriately reconsidered in making substantial harm determinations? How would they be reconsidered in making worst case discharge calculations? What factors would support their reconsideration in the rule?

3. What specific overlapping requirements under other relevant EPA regulatory programs should EPA reconsider for purposes of compliance with the CWA HS FRP requirements? Are there specific requirements in other programs that should be highlighted (*e.g.,* 40 CFR part 112—Oil Pollution Prevention Program, 40 CFR part 68—Risk Management Program)?

4. Are there specific external resources that would assist in the facility FRP coordination with potentially affected entities at the federal, state and/or local level (*e.g.,* public water systems)?

5. Are there other opportunities or ways in which to simplify the CWA HS FRP requirements under 40 CFR part 118 that would maintain readiness to protect human health and the environment in case of a CWA HS worst case discharge to navigable waters, adjoining shorelines, or exclusive economic zone and meet all CWA 311(j)(5) statutory requirements?

6. What other FRP amendments should the EPA reconsider, that may be more appropriately targeted to address CWA HS worst case discharges to navigable waters or adjoining shorelines?

IV. Statutory and Executive Order Reviews

Additional information about statutes and executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to Office of Management and Budget for review. Any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemaking do not apply in this case. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statues and Executive Orders as applicable to that rulemaking.

List of Subjects in 40 CFR Part 118

Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

Lee Zeldin,

Administrator.

[FR Doc. 2026–03220 Filed 2–17–26; 8:45 am]

BILLING CODE 6560–50–P