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May 19, 2026

Rebecca Broussard  
Office of Land and Emergency Management  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20450  
Submitted via [www.regulations.gov](http://www.regulations.gov)

**RE: Advanced Notice of Proposed Rulemaking: Clean Water Act Hazardous Substance Facility Response Plans; Amendment Reconsideration (Docket ID No. EPA-HQ-OLM-2025-1707)**

Dear Ms. Broussard:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on EPA's advanced notice of proposed rulemaking (ANPRM) on Clean Water Act (CWA) Hazardous Substance Facility Response Plans; Amendment Reconsideration (91 FR 7415). NACWA represents the interests of 360 publicly owned wastewater treatment agencies nationwide, serving the majority of the sewered population in the U.S. NACWA member utilities are responsible for treating the millions of gallons of wastewater produced by their communities each day, while meeting the requirements of the CWA.

NACWA members use a variety of chemicals in the wastewater treatment process, and most publicly owned treatment works (POTWs) are located near navigable waters. Due to the new Reportable Quantity (RQ) multiplier, some POTWs are now subject to the requirements of the CWA Hazardous Substances Facility Response Plan (FRP) regulations, which were published on March 28, 2024 (89 FR 21924). NACWA submitted comments on the proposed regulations, asking that EPA make clarifications to ensure that the process to develop an FRP is as effective and efficient as possible.

NACWA agrees with the intent of the FRP requirement to help protect surface waters in the case of a worst case scenario discharge that would cause significant harm to human health or the environment. However, the final rule is overly broad, including requirements that exceed the scope of what is necessary to protect against the risk of substantial harm in the case of a worst-case discharge. NACWA supports EPA's consideration of clarifications or amendments to the requirements of the final rule and offers the comments below on EPA's requested feedback.

**What Other RQ multipliers should EPA reconsider? Why?**

EPA originally proposed an FRP applicability threshold of 10,000 times the reportable quantity for CWA hazardous substances. In the final rule, EPA changed the threshold to only 1,000 times the reportable quantity. This substantially lower threshold requires many more facilities to develop FRPs, which places an unnecessary burden on both the facilities and regulators without a commensurate environmental benefit. Wastewater utilities with a 1,000 times RQ multiplier do not have large enough quantities of CWA hazardous substances to cause substantial harm to human health or the environment in a worst case discharge. Requiring FRPs for these facilities dilutes emergency planning efforts. EPA should return to the 10,000 times RQ multiplier threshold to maintain focus on the facilities that represent the greatest risks to public health and the environment.

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

EPA should clarify that only CWA hazardous substances in liquid form are subject to this rule, since only liquid substances would be discharged to a water of the U.S. Substances that are solid or gas at ambient temperatures should be exempt from the rule. EPA should also clearly define “liquid,” since some CWA hazardous substances can fluctuate between liquid and gas depending on conditions.

EPA should also exempt CWA hazardous substances that are unlikely to be released to a water of the U.S. in case of an accidental discharge. For example, topographical features may exist between the storage and a surface water that would prevent a hazardous substance discharge from reaching the surface water. Storage tanks located below grade with secondary containment are also very unlikely to reach surface waters in a worst case scenario discharge.

**What existing tools or alternative approaches would assist a facility in determining planning distances for the existing worst case discharge calculations?**

EPA should simplify the modeling process and provide guidance on a model or modeling options that regulated facilities can use. Flexibility should be available for facilities to use a model that is approved by EPA or to use a different model, with EPA approval of a different model required within a reasonable period of time. The variety of facility designs and worst case discharge situations may make a “one size fits all” model impossible.

**Additional comments on implementation**

NACWA submitted comments on April 6, 2026, supporting EPA’s proposed compliance date delay from the current date of June 1, 2027, to June 1, 2030, while EPA reconsiders these requirements for FRPs. EPA will need time to consider the comments that it receives for the ANPRM and to develop the potential amendments to address implementation challenges and clarify requirements. This process will take time and will likely extend beyond the current June 1, 2027, compliance date. The proposed three-year implementation extension will allow time for EPA to complete its rulemaking process to revisit the regulatory requirements for FRPs. NACWA recommends that EPA issue this three-year compliance delay as an interim extension, then determine a final compliance date when the changes to the rule are completed.

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Thank you for your consideration of these comments. Please contact me at 202-533-1836 or [cfinley@nacwa.org](mailto:cfinley@nacwa.org) if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia A. Finley".

Cynthia A. Finley, Ph.D.  
Director, Regulatory Affairs