Clean Water Act Hazardous Substance FRP Rule

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CWA Hazardous Substance FRP

- March 2024 rule requiring certain facilities to develop FRPs for worst-case discharges of CWA hazardous substances
- Initial 36-month implementation period
- Framework for identifying coverage and requirements for CWA hazardous substance FRP

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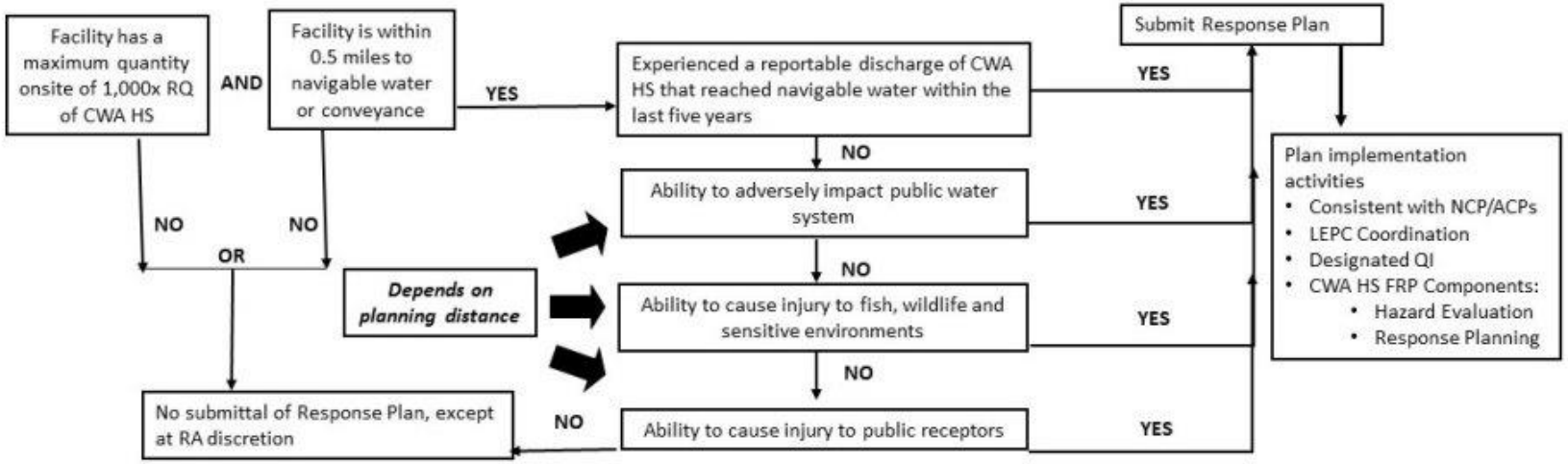
Applicability Criteria



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Screening Criteria

- **Threshold Quantity**: Does maximum quantity onsite of any CWA hazardous substance meet or exceed 1,000 times reportable quantity?
  - **Exemptions**: articles, process / cooling water, POTW, RCRA
- **Navigable Waters**: Is facility boundary or nearest opportunity for discharge located within one half mile of navigable waters or conveyance to navigable waters?

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Substantial Harm Criteria

1. Ability to adversely impact public water system
2. Ability to cause injury to fish, wildlife, and sensitive environments
3. Ability to cause injury to public receptors
4. Reportable discharge of CWA hazardous substance to navigable waters in last 5 years

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Implementation and Enforcement

- EPA regions can require facilities to prepare of FRPs
- Appeals of coverage determinations
- Public petitions for coverage

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FRP Requirements

- FRP plan must address all hazardous substances onsite above threshold quantity
- Hazard evaluation: model worst-case discharge scenario; EJ, climate change
- Response personnel/equipment, training/testing, response action plan
- FRP must be recertified every five years

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Thank You!

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