

**CLEAN WATER ACT
WORST CASE SCENARIO
PROPOSED REGULATION**

APPLICATION

- The proposed rule would apply to onshore non-transportation-related facilities “that could reasonably be expected to cause substantial harm to the environment by discharging CWA hazardous substances”

CWA HAZARDOUS SUBSTANCES

- 294 SEPARATELY LISTED SUBSTANCES
- NOT ON THE LIST-OF-LISTS

EPA proposes two screening criteria & four substantial harm criteria

- Does the maximum capacity onsite for any CWA hazardous substance meet or exceeds 10,000 times the reportable quantity (RQ)
- Each CWA hazardous substance has an RQ. The RQ is 5,000 pounds for lots of substances but can be lower - 10 pounds for benzene, one pound for PCBs.

IF YOU EXCEED THE THRESHOLD THEN

- Is the facility within one-half (0.5) mile of a navigable water or a conveyance to a navigable water.
- ? Storm drains

IF YOU MEETING BOTH CRITERIA THEN

- Four substantial harm criteria:
 - (1) adversely impact a public water system;
 - (2) cause injury to fish, wildlife, and sensitive environments;
 - (3) cause injury to public receptors; and/or
 - (4) a reportable discharge of a CWA hazardous substance within the last five years.

REGIONAL ADMINISTRATOR DESIGNATION

- REGARDS OF THRESHOLDS MAY DESIGNATE IS SUBSTANTIAL HARM POTENTIAL
 - HARM TO ENVIRONMENT
 - IMPACT TO PUBLIC WATER SYSTEMS
 - SOURCE WATER PROTECTION
 - HARM TO PUBLIC
 - LACK OF PASSIVE SYSTEMS – INCLUDING CLIMATE CHANGE RESILIENCE
 - VULNERABILITY TO ADVERSE WEATHER
 - ENVIRONMENTAL JUSTICE
 - OTHER SUBJECTIVE CRITERIA

WHAT'S IN A PLAN

- MUST BE CONSISTENT WITH NCP AND AREA CONTINGENCY PLANS
- QUALIFIED INDIVIDUAL
 - FULL AUTHORITY TO IMPLEMENT PLAN & IC TRAINED
- NOTICE TO TERC/SERC AND LEPC/TEPC
- “PROMPT ACTION” TO CONTAIN/CONTROL

COORDINATION MANDATE

- UPON REQUEST THE LEPC/TEPC GETS A COPY OF THE PLAN
- COORDINATED WITH EPCRA PLANS
- COORDINATED WITH RESPONDERS
- PLANS/SCHEDULES FOR EXERCISES/DRILLS
 - PREP EXERCISE REQUIREMENTS MANDATED
- DOCUMENTED COORDINATION